

4
Bibliotheca Politica:

Or, A

DISCOURSE

By way of

DIALOGUE,

S H E W I N G,

That the *Arraigning* and *Murther* of King *Charles I.* can by no means be Justified by the Proceedings of the Convention-Parliament against King *James II.* upon his *Abdication*; the Grounds and Manner thereof being wholly different.

P R O V E D B Y

An Exact Relation of the Beginning, Progress, and Issue of the late CIVIL WAR.

Dialogue the Fourteenth.

L O N D O N :

Printed for *W. Rogers* at the Sun in *Fleetstreet*; *R. Knaplock* at the Angel in *St. Paul's Church-Yard*; *A. Bell* at the Cross-Keys and Bible in *Cornhill*; and *T. Cockerill* at the Three Legs and Bible against *Grocers-Hall* in the *Poultrey*. 1702.

And the following

OF A

DISCOURSE

BY

DIALOGUE

SHE WING

That the foregoing and the following of the
can be seen in the
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P. R. O. V. E. N. T.

An Exact Relation of the
and the of the late CIVIL WAR

Dialogues

L O N D O N

Printed by R. B. ...
...
...

Preface to the Reader.

THE Ensuing Discourse was intended to have been Publish'd about Nine Years ago, as a Conclusion to the rest of the Dialogues that made up my Bibliotheca Politica; but that the Bookseller who undertook the Printing of them, declin'd doing it, because he judged those he had already, enough for his Purpose. But since I have observed Two Opposite Factions agreed in this Tenent (for the better supporting their false Notions), That the Abdication of King James, and placing His present Majesty (with the late Queen Mary) upon the Throne, is no ways to be defended, but by Commonwealth Principles; and that whoever now vindicates the late Revolution, must thereby justify the Deposition and Beheading of King Charles the First; which besides the Villany of the Deed it self, would be to contradict the General Sense of the Whole Nation, declared in the * Act of Parliament for the Attainder of the Regicides:

*12. Car.
2. c. 30.

I shall therefore give you some part of that Statute, enough to shew the true Sense of the Lords and Commons in that Point: Where it was declared,

To the Reader.

‘ That the Horrid and Execrable Murther of His
‘ Majesty’s Royal Father of Ever-blessed and Glo-
‘ rious Memory, has been committed by a Party of
‘ wretched Men, desperately wicked, and hardned in
‘ their Impiety; who having first plotted and contri-
‘ ved the Ruin and Destruction of this Excellent
‘ Monarchy, and with it, of the True Reformed
‘ Protestant Religion, which had been so long pro-
‘ tected by it, and flourished under it, found it neces-
‘ sary, in order to the carrying on of their pernicious
‘ and Traytorous Designs, to throw down all the
‘ Bulwarks and Fences of the Law, and to subvert
‘ the very Being and Constitution of Parliaments,
‘ that so they might at last make the way open for any
‘ further Attempts upon the Sacred Person of His
‘ Majesty Himself: And that for the more easy ef-
‘ fecting thereof, they did first seduce some part of
‘ the then Army into a Compliance, and then kept the
‘ rest in subjection to them, partly for Hopes of Pre-
‘ ferment, and chiefly for fear of losing their Em-
‘ ployments and Arrears; until by these, and other
‘ more odious Arts and wicked Devices they had fully
‘ strengthned themselves both in Power and Faction:
‘ Which being done, they did declare against all man-
‘ ner of Treaties with the Person of the King, even
‘ then, while a Treaty by Advice of both Houses of
‘ Parliament was in Being; remonstrate against the
‘ Houses of Parliament for such Proceedings; seize
‘ upon

To the Reader.

‘ upon His Royal Person, while the Commissioners
‘ were returned to the Houses of Parliament with
‘ His Answer: And when His Concessions had been
‘ voted a Ground for Peace, seize upon the House of
‘ Commons, seclude and imprison some Members,
‘ force out others; and there being left but a small
‘ Remnant of their own Creatures (not a Tenth
‘ Part of the whole) did seek to shelter themselves
‘ by this weak Pretence, under the Name and Au-
‘ thority of a Parliament; and in that Name la-
‘ boured to prosecute what was yet behind and unfi-
‘ nished of their long-intended Treason and Conspi-
‘ racy: To this purpose they prepar’d an Ordinance
‘ for erecting a prodigious and unheard-of Tribunal,
‘ which they called An High Court of Justice, for
‘ Tryal of His Majesty: And having easily procu-
‘ red it to pass in their House of Commons, as it
‘ then stood moulded, ventur’d to send it up to the
‘ Peers then sitting, who totally rejected it: Where-
‘ upon their Rage and Fury increasing, they presu-
‘ med to pass it alone, as an Act of the Commons,
‘ and in the Name of the Commons of England:
‘ And having gain’d the Pretence of Law, by a
‘ Power of their own making, persue it with all pos-
‘ sible Force and Cruelty; until at last, upon the
‘ Thirtieth of January, One thousand six hundred
‘ forty and eight, His Sacred Majesty was brought
‘ unto a Scaffold, and there publickly Murther’d be-
‘ fore

To the Reader.

‘ fore the Gates of His own Royal Palace. And
‘ because by this Horrid Action the Protestant Re-
‘ ligion hath received the greatest Wound and Re-
‘ proach, and the People of England the most in-
‘ supportable Shame and Infamy that was possible for
‘ the Enemies of God and the King to bring upon us;
‘ whilst the Fanatick Rage of a Few Miscreants
‘ (who were as far from being True Protestants,
‘ as they were from being True Subjects) stands
‘ imputed by our Adversaries to the whole Nation.
And then it proceeds with the Lords and Com-
mons their Detestation and Abhorrence of that Impious
Fact, as a most Execrable Murther and Unparal-
lel’d Treason against the Life of His Majesty’s
Royal Father; and goes on to the making every
Thirtieth of January (unless it happens on a Sun-
day) an Annual Fast. And at last they Attaint Oli-
ver Cromwell, and all the rest therein mentioned,
as being guilty of the same.

This is a sufficient Evidence in it self, to prove,
That though we are obliged by this Act to keep an
Anniversary Fast for the Abominable Sin commit-
ted on this Day, yet All the Estates of Parliament
did hereby fully declare, it was no National Sin,
but the Act and Villany of a Few Miscreants, who
were back’d and supported by a then irresistible Fa-
ction in the Army.

Yet however, I must confess, both Jacobites and
Republicans

To the Reader.

Republicans do still obstinately maintain (tho for different Ends and Views), That the late Revolution cannot be justified otherwise than upon the Topick above-mentioned in the beginning of this Preface ; the Former to bring us over (if possible) to their Conceits, or at least to make us quit our Old Honest Cavalier Principles ; whilst the Latter make use of the same Argument, the better to justify that wicked and Traiterous Action of the Party they had espoused.

I have therefore, as a Friend to that Primitive Church, of which I am (and hope shall ever continue) a Member, endeavoured to vindicate not only the late Happy Revolution, but also that admirable Constitution of our Government by King, Lords, and Commons, under which I was born, and which we now so perfectly enjoy ; and for that end have been likewise prevail'd upon to publish the ensuing Discourse ; wherein I have maintain'd and defended the Antient Rights and Prerogatives of the King, together with the Just Liberties and Privileges of the People, without making the one Arbitrary, or giving the least Countenance to the other to Rebel against, or Depose the King, whenever they shall think fit. And I heartily wish that it may have that good Effect on all those who love the Truth, the Protestant Religion, and Present Establishment, for which it was only design'd.

THE

**The Principal AUTHORS cited
in This Dialogue.**

MA Y's *History of the Parliament of
England.*

Rushworth's *Historical Collections*, Part III.
Vol. I.

Whitlock's *Memorials of the English Affairs.*

Dugdale's *Short View of the late Troubles in
England.*

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THE
Fourteenth Dialogue

BETWEEN

Mr. *MEANWELL*, a Civilian;

AND

Mr. *FREEMAN*, a Gentleman.

M. **I** Am come this Evening to Discourse with You about somewhat that I have heard to day, which has very much raised my Spleen against all the Complying-Clergy, who justify this Revolution; and it satisfies me, that most of them are no better than downright Hypocrites and Turn-Coats.

F. Pray, Sir, be pleased to tell me, What it is that has put You into this Ferment?

M. I shall, and am glad to find You so willing to hear me: You must know then, That this being the Thirtieth of *January*, the Anniversary of the Martyrdom of that Great and Pious Prince, who fell on this day by the bloody Hands of his Rebellious Subjects; I was resolved to go and hear one of our Celebrated Preachers in the City, to observe how he would manage his Point (which I must tell You, I thought was a Nice and Ticklish Subject) since I foresaw, That as he must necessarily condemn that horrid and barbarous Fact, so he would likewise at the same time justify this Revolution, which was begun and carry'd on upon the same Principles,

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though not by the same Persons: And I was not deceived in my Expectations: For my City Doctor was shrewdly put to it; and like an Ass mumbling a Thistle, tho' he condemned the Fact of this Day with great Warmth, and Bitterness of Spirit; yet, when He came to handle those good Old Church of England Doctrines of *Passive Obedience*, and *Non Resistance*, He touched them very gingerly; because he was afraid they would go near to prick his Chops: Therefore being sensible, That this Revolution was not to be justified, upon those Terms, He fell into a strange Fantastical Hypothesis, of God's ways in disposing of Kingdoms; and that the Prince of Orange, by the wonderful Success of his Arms against King James, was, by a kind of Mixt Right of Conquest and Election, become our King; and by God's Providence, wonderfully declaring it self in his Favour, He might, nay ought to be lawfully Owned and Recognized as such by all the Subjects of this Kingdom; but yet that it was still downright Rebellion before God, for any private Persons to conspire, or make War against the King; which I thought very strange Doctrine: Since the Prince of Orange set forth in his Declaration (which we have no reason to disbelieve) that He was invited over by divers of the Bishops, Peers, and Gentlemen of the Kingdom, which was so far made good, that one of the First, and divers of the Second and Third Orders, either declared for Him, or actually went in to Him upon His Landing: Besides those who came over with Him in a Military posture. But how they could be justified by this Doctor's Principles, let those look to it whom it concerns.

But I am sure His whole Sermon was so far from Edifying, that it gave great occasion of Scandal and Offence to all the honest and judicious part of his Auditory; for if God's Providence must be brought in to justify, at every turn, a Rebellion, or Revolution (as it is now more softly worded) I cannot see, why the Murther of King Charles the First may not also be justified upon those very Principles; it being sufficiently known to all that lived in those times, that Cromwel and the Rump appealed to their strange and wonderful Successes and Victories over the King; and God's delivering Him into their Hands (all which in their Cant they called *Providences*) as an Indication that God had designed Him to be

be taken off in the manner He was : And that their Wicked, Illegal, and Tyrannical Power, was that which was thereby Sanctified and Ordained by God, and to be submitted to and obeyed, according to the Apostle's Precept, *Let every Soul* Rom. 13. *be Subject to the Higher Powers; the Powers that be are ordained* ver. 1, & 2. *of God, &c.* So that by such a plain and manifest wresting of Scripture, the most open and barefaced Rebellions and Usurpations, when they prove successful enough to carry the Outward Shew of a Civil Government, must presently be owned as God's *Ordinances* ; and if this must pass for sound Doctrine, I think it were better wholly to lay aside the Observance of this Day, though appointed by Act of Parliament, than thus to mock God, and at the same time condemn an Action, when done by those we call by the hard Names of *Rumpers*, *Commonwealths-men*, and *Fanaticks* ; and yet in the same breath justify the very like practices of those who now call themselves Asserters of the Monarchy, and seeming Members of the Church of *England*, who have solemnly declared King *James* to have *abdicated* the Throne upon the Breaches of I know not what *Original Contract*, and Fundamental Laws ; and it thereby becoming vacant, have placed the Prince of *Orange*, and His Princess on the Throne. And the Long Parliament after their Execrable Murther of King *Charles*, might with the like Right and Justice have proclaimed *Cromwel* (the chief of His Enemies and Judges) for Lawful King, as he sate up himself afterwards for *Protector*, by the like Providential Title.

And though, I confess, the Prince of *Orange* hath not been so cruel to His Uncle and Father in Law, as to imprison Him, and take away his Life, but gave Him an opportunity to make His Escape : Yet whether That did not more proceed from Interest, than either Mercy or Good Nature, I may have some reason to doubt : Because had the Prince either Imprisoned Him, or put Him to Death, it would have proved disadvantageous to His Interest, and turned to His Prejudice, even among the Common People of the Nation ; and besides, would have prevented the Notion of the King's *Voluntary Abdication* of the Government, which has been since so greedily swallowed by an Hypocritical, or at least an Unthinking Party of the House of *Commons* ; and how they would have proceeded against His

Person (had he staid here) God knows. For they might with the same Justice have taken away His Life, as declared Him to have Abdicated, that is (as You Your self confessed at our last meeting) forfeited His Crown: So that, to conclude, I see no difference but the Changing of the Names of the Persons that can justify this Revolution from the same Imputations of Treason and Rebellion, as the Murther of King *Charles the First*; for though his Son is still (God be praised) alive in *France*, yet the Party You have so much Vindicated, have done all they can to destroy His Politick Person, by declaring Him actually deprived of all Sovereign or Regal Power, as Lawful King of *England*.

F. You have made a sharp Discourse against the Murther of *K. Charles the First*, and Abdication of his Son, *King James II.* In great part of which, as I shall not oppose You, so, I hope, the unwary and indiscreet handling of this Subject by some of our *City* Preachers, will not prejudice You against the late Revolution, and placing the Prince of *Orange* on the Throne: For, as I agree with You, That a Temporal Success or Victory of any Party of Men, nay, of a whole Nation against an Enemy, either Foreign or Domestick, ought not to be urged as an evident Token of God's approving the Cause they were engaged in; being sensible, That this Argument has been made use of, not only by *Cromwel*, and his Long Parliament, both before and after the King's Murther; And is indeed the Common Topick and Refuge of all unjust Force and Violence committed in the World; and serves the *Turks* at this day for their main Argument of the Truth of their Religion, and the Justice of their Arms against the *Christians*: And therefore before ever we give a Judgment concerning God's allowance of such Actions (tho' never so amazing and successful) we ought to distinguish between God's permissive, and his declared and express Will, or Providence; without the former of which, no human Actions, whether Good or Bad, could ever be brought about; since he has so wisely contrived all the Affairs of this World, That even the wicked Actions of Men do turn to his own Glory, and the Common Good of Mankind; yet his direct and declared Will ought never to be made use of as an Argument, but where the

the Scriptures so declare it; or that the apparent Justice and Merits of the Cause may make us presume, That God by His granting Success, does likewise allow the Justice of the Cause.

I have not therefore, in whatsoever I did or shall say on this Subject, drawn any Argument for the present Government from that Head, nor found Their Majesty's Right to the Throne, on the fallacious Topick of Success: But as for your main Objection, and which so much scandalizes a prejudiced and inconsiderate Party of our Church, That this Revolution (if adher'd to) will serve to justify the Deposing and Murthering of King *Charles the First*, I utterly deny; since there are a great many, and those very Material, Differences between that Fact, and the Abdication of the late King.

I shall therefore proceed to shew you these Grand Differences between those Two Transactions; which I shall do, First by enquiring into the Beginning and Original of the Disputes between King *Charles*, and his Parliaments: And then comparing them with those which lately happened between the late King *James the Second*, and his Parliament, and his Proceedings after its Dissolution. So that if we look back upon the Actions of both these Princes, and the Proceedings of the Parliament and People of *England*, in opposition to them, we shall find them vastly different. First, As to the Original of them, King *Charles* was left involv'd in a War with *Spain* by his Father; and being not long after un-luckily engaged in another with *France*, and denied any Assistance in Three Successive Parliaments: I grant he was forced, for the carrying on of these Wars, to take very Illegal Courses by *Loans*, and *Privy-Seals*, and other ways to raise Money; and being so often disappointed of his Expectations of receiving any benefit by Parliaments, it was no wonder, if that Dislike was afterwards by some Evil-Counsellors about him (who fear'd to be called to Account for what they had acted contrary to Law) heightened to a perfect Aversion to them; and he put upon to raise *Ship Money* by the bare Opinion of the Major-part of the Judges, contrary to Law; yet to say Truth, this Money was not vainly Squander'd away, but really laid out for the use of the Navy, in buying in of Naval Stores, and building of Men of War,

War; the *Royal Sovereign* being made out of that Money: But when the Necessity of the King's Affairs upon the breaking out of the *Scottish War*, obliged him to call a Parliament, he then offer'd, if he might have a sufficient Assistance against them, to have redress'd all those Grievances; and had certainly done it, had not the House of Commons, by denying the King that reasonable Aid he required, obliged him to dissolve them. But when the Long-Parliament in 1640. came to Sit, the King having then, upon the Earl of *Strafford's*, and the Archbishop *Laud's* being Impeached, and committed to the *Tower*, and the Lord-Keeper *Finch*, and Secretary *Windebank's* withdrawing themselves beyond Sea, altered his Measures, as well as his Counsellors, he condescended to pass whatever Laws the Parliament thought fit to offer to secure the Nation against those just Fears of Popery and Arbitrary Government, which then so much perplex'd them. So that after all these unparallel'd Condescensions, they had no just reason longer to continue their Jealousies, and discontents, unless they could wrest from the King the whole power of the *Militia*, which gave the first occasion to that unhappy Civil War.

M. I grant what you say to be in great part true; and yet upon your Principles this will not do the business; for if the King, upon any wilful breach of the *Original Contract* (as you call it) and obstinately persisting in it, may be resisted by the People, and declared to have *Abdicated* the Government, upon such wilful Invasions of our Fundamental Laws and Liberties; King *Charles the First* having also knowingly persisted in those Violations after his granting the *Petition of Right* so solemnly, in his Third Parliament; and after many Petitions of divers of his Subjects against those Oppositions, yet they were still continued; sure he might with as much Law and Justice have been resisted, and have had Arms taken up against him, by the People of *England*, as have been lately against his Son. And upon King *Charles's* refusal to redress them, might also have been declared by the Parliament to have Abdicated the Kingdom, by renouncing the lawful way of Government of it, according to your supposed Fundamental Constitutions thereof: And yet for all that, the Long Parliament it self, though they declared that the King's setting up his
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Standard at *Nottingham*, was an actual making of War upon the People of *England* in their Representatives ; yet neither then, nor in the very Heat of this War did they ever arrive to that degree of Impudence, as to declare the King to have broken his *Original Contract*, and thereby to have *Abdicated* the Government ; but still continued their Addresses to him for Peace, if they might have had it upon their own Terms ; nor yet when they had Voted no more Addresses to the King, did they ever declare that He had *forfeited* the Crown by his wilful breach of the Laws, and making War upon his People. These things, I say, were never done by them, till *Cromwel* and the Army, with the Independent Party in the House, first declared at *St. Albans*, That the King, by beginning a War upon the People, had committed Treason against them. But your *Convention* has quite outstript the Old *Presbyterians*, and have not only laid aside the King as they did, but have also taken from him the very Title of King, and have declared him to have *Abdicated* the Government ; which Act, I doubt, can never be justified by your Notion of making him forfeit the Throne by a Tyrannical Administration, and so to depose Himself.

F. I am very sorry to see you so hard put to it, as to find no way to justify the late King's Miscarriages, but by comparing them with those of his Father's Reign ; which, though I grant them to be very great, and in some things worse than those of his Son's ; yet were they chiefly at the beginning of his Reign, and indeed before he had granted the *Petition of Right*, when he had in truth very much violated the Laws of the Kingdom, by Exacting *Illegal Loans*, and Imprisoning those that refused to pay them ; as also by levying *Soldiers*, and requiring the Counties to furnish the Charges of *Coat and Conduct-Money* for them, contrary to Law. I grant also that His appointing Commissioners to Try, Condemn and Execute Soldiers by *Martial-Law* in time of Peace, were against the known Laws of the Land, as also quartering them in private Houses, whether the Owners would or not ; and then his imprisoning divers People of Quality without any Cause shewn, or Time limited, and without suffering them to be delivered by *Habeas Corpus*, as by Law they ought. All which Grievances being briefly summed up in the *Petition of Right*, were, (though not with-

out

out some difficulty) at last redressed by the King, in that remarkable Answer, I have already cited, *Soit Droit Fait Come il est desiré*. And although there may be a great deal said by way of Excuse in the King's behalf, for those illegal and arbitrary Proceedings; As that he then found himself engaged in a War with the *Emperor* and House of *Austria* about the *Palatinate*, and that at the desire of the Parliament; And notwithstanding when he could receive no Assistance from them in the three first Parliaments of his Reign, He was forced to make use of those exorbitant Methods to raise Money, to carry on an unsuccessfull War against *Spain*, and the *Emperor*, in order to restore the Prince *Elect*or his Brother-in Law to his Inheritance; tho' who were the Cause of this Necessity, whether the King or the House of Commons, I shall not now dispute: But whoever was in the fault, it was sufficient that the King redress'd all those Grievances in the third Parliament of his Reign. And yet even before that time, I affirm there was no just Cause for the People to take up Arms, since (as I said at first) those Oppressions were either but light, or else fell only upon some Trading Men; and I have already laid it down for a Rule, "That it is never lawful to resist the King's Commands by Force; but when they strike at the very Root of the Constitution, and become not only General, but Insupportable by the Subjects; and that there is no hopes left of redress by Parliament; which I do not see was the Case at that time, seeing the King at last did remedy all those Grievances by a Parliament.

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M. I grant it might be as you say, but did not the Nation quickly fall into fresh Discontents by the King's exacting of *Tonnage* and *Poundage* from the Merchants, before those Duties had been new granted and confirmed by Act of Parliament? And also, by his clapping up divers of them for refusing to pay it? Nay, did he not also, some time after this, by the Opinions of almost all his Judges, and advice of his Privy Council, levy *Ship-Money* upon the whole Kingdom by his own Proclamation, and committed divers Gentlemen to Prison that refused to pay it, nor would admit of any *Habeas Corpus* to release them? I shall omit divers other things of less Moment, such as his dispensing with the Statutes against Popish Priests and Jesuits, and his releasing

sing and pardoning of them, when they were Condemned As also his making several Popishly-inclined Lord-Lieutenants, Deputy-Lieutenants, and Justices of the Peace ; His turning out the Lord Chief-Justice *Crew*, because he declared himself against the *Loan* ; and Imprisoning the Refusers of it during Pleasure ; and would also have turned out the Lord Chief Baron *Walter* upon the same Account, had he not held his Place by Patent, *Quam diu bene se gesserit* ; and yet nevertheless he was forbidden Sitting in that Court any more ; which things are but the same in effect, as the *Convention* have put into their late Declaration against the present King ; and therefore I must say again, that the one is no more to be defended than the other. But if these things did not deserve any *Resistance*, or *Abdicatioa* of the Father ; Why should the like, nay less, matters have that Tragical Effect upon the Son ?

F. I should not have desired to enter upon this Odious Comparison, or to rake into the Ashes of the Dead ; yet, since you will put me upon it, give me leave to tell you my Opinion freely, of this part of the Reign of King *Charles the First* ; That those Violations upon the Laws you mention, were so great and general, that had they been as obstinately persisted in, when the Parliaments met in 1640, and 41, I doubt not but they might have produced (and that lawfully) the like Effects, as his Son's Miscarriages have since brought upon him, by his going away, rather than he would suffer them to be redress'd by a Free Parliament : But his Father was better advised, and either redressed those Grievances and Oppressions the Nation complained of before those Parliaments sate ; or else yielded to the Parliament's Declarations against them, and gave up the Offenders to be punished according to Law. Thus, for Example, before the Parliament sate in 1640, He released all those Gentlemen, and Merchants, that were in Prison, for not paying *Ship-Money, Tonnage and Poundage*, &c. And as for *Ship-Money*, he acquiesced under the Judgment of both Houses, who condemned it as Illegal ; and left all the Judges that gave their Opinions for it, to the Judgment of the Parliament : He also Signed a Bill to take away *Tonnage and Poundage* ; as also another to attain the Earl of *Strafford* for endeavouring to introduce an Arbitrary Government, and Subvert
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the Laws of the Kingdom. He also passed several other Acts for the taking away of the *Star-Chamber*, and *High Commission-Courts*, and even for taking away the Votes of the Bishops in the House of Peers : And last of all, he passed that unparallel'd Act I now mentioned, of making the Parliament not capable of being Adjourn'd, Prorogu'd, or Dissolv'd, without their own Consents : So that he omitted nothing (as I know of) that was desired of him for the redress of all those Grievances that the Nation then justly complained of ; those Persons who were accounted the Authors of them, being either Executed, Imprisoned, and Fined ; or else saved themselves by Flight.

But as for what you say about that King's pardoning Popish *Priests*, and suspending the Laws against *Roman-Catholicks*, and turning out of Judges ; they were nothing like what his Son King *James* hath lately done in that kind. For in the first place, his Father never did more in pardoning *Priests*, than what Queen *Elizabeth*, and King *James* the First had often done before ; who seldom or never Executed any, only for being *Priests*, unless they had also been found guilty of some other Treason : Nor do I know of any Law there then was in force against *Roman-Catholicks*, the Execution whereof was openly suspended by any Proclamation ; tho' I confess those Justices of Peace, who were found most active in putting such Laws in Execution against *Papists*, were commonly put out of Commission ; but as for the turning out of Judges, you can instance but in One who was so turned out, because he would not agree to the *Loan* ; but as for the Other, you your self grant it was only offer'd at, but could not be done : But what is this to the turning out of Three, or Four, or Five Judges at a time, because they would not consent to give their Opinions as the Court would have them, even in Matters of the highest Importance ? And then putting *Papists*, or else Men of the loosest Consciences, and least Law, in their Places, as was lately done ? What is the pardoning of a few *Priests*, and the silent exempting some *Roman-Catholicks* from the Penalties of the Laws made against them, in comparison of a General and Avow'd *Suspension*, not only of all Laws against them, but also of all those concerning Religion whatsoever ? This sure was never practis'd by any King of *England* before our Times.

To

To conclude: Let us now suppose that in the Year 1641. the King, instead of redressing all those Grievances and Violations of the Laws we have now mention'd, should have withdrawn himself into *Ireland*, and there have joyned himself with the *Irish Rebels*, and by the Assistance of the King of *France*, had made War upon this Kingdom; declaring that he would never put up his Sword, till he had made himself absolute Master of all our Laws and Liberties: What think you the Parliament which was then Sitting would have done in this Case? Can you believe they would have sat still, without passing a Vote against the King's Arbitrary and Tyrannical Proceedings? No certainly, they would never have stopped, till they had declared Him, by thus becoming a Publick Enemy to his People, to have *Abdicated*, or *Forfeited* all his Right to the Government of this Kingdom; or else, I think, they could by no ways have secured the safety of it.

M. But pray let me ask you one Question more, before you proceed farther, since you have not yet answer'd my Objection: Why did not the Parliament then do so, when the King did afterwards actually declare War against them?

F. There were several good Reasons for that: As First, because they could not but know in their own Consciences, that the King, before his departure from *London*, had already given them all the Security, against those Oppressions and Violations that had been formerly committed, as they themselves could desire. And Secondly, because they knew what they insisted upon with so much heat, to wit, the disposing of the *Militia* of the Kingdom, had been in the King's and his Predecessors disposal, from time beyond Memory; so that there needed an express Act of Parliament to take it from him by Law (as they themselves at first acknowledg'd:) And it was nothing but the Tumults that were rais'd in *London* by the Rabble's coming down to Petition the Two Houses, and by their Violent insisting to have the whole power of the *Militia* out of his hands (which was indeed to take from him the chief Regal Power, That of the Sword) could have thus forced him from the Parliament, and to take up Arms, when he had neither Men nor Money to pay them, the Parliament having stopped

his Revenues, ever since his going to *Hull*: And therefore, seeing they had no other Cause, but their own Fears and Jealousies to justify what they did, they had no way to do that, but by laying all the fault upon the King's Evil-Counsellors, who had carried him away from his Parliament, to incite him to make War against it; to remove him from whom, and to bring him back to his Parliament, they made the chiefest pretence for the War; yet notwithstanding there were still left in the House a great many honest well-meaning Men, called *Puritans* (the Name of *Presbyterian* being not yet in Fashion;) and who, tho' they were against all Arbitrary Proceedings, yet nevertheless loved Kingly Government, and did not desire his Majesty's Ruin, so long as there were any hopes left of coming to an Agreement with him, upon such Terms as they thought would best suit with the *Presbyterian* Discipline, and the Rights and Liberties of the People; and these were for ending all Differences by a fair Treaty, and afterwards Voted the King's Concessions at the *Ile of Wight* to be satisfactory; and being for this alone driven out of the House by *Cromwel*, and his *Independent* Faction, were called the Excluded Members, and were the very Men, who being afterwards brought again into the House by General *Monk*, joyned with him in Voting for a Free Parliament, or Convention, which (you know) recall'd, and Restored the King, and Royal Family.

M. I cannot deny, but you have given me a fair Account of these Transactions; yet, methinks, according to your Principles, I can see no reason why the People might not have risen up in Arms against the King in that long Interval of Parliaments, when he levied *Ship-Money*; and (as you own) did so many Illegal things, and that to force him whether he would or not, to call a Parliament, to redress those Oppressions and Grievances the Nation then lay under; and yet you cannot shew me any Man in *England*, who had either the Will, or Interest to raise a Rebellion against the King during those Eleven Years that those things were transacted; so well were the People satisfied with His Majesty's Government, notwithstanding all the secret Murmurs and Discontents of some Leading and Factionous Men against his Proceedings. And therefore, when the

Scots.

Scots first invaded *England* upon the Account of the New Service-Book, I cannot find but the Major part of our Nobility and Gentry were well enough satisfied with the King's Proceedings, and served him with great Courage and Fidelity at his first Expedition against the *Scots*.

F. If this be so, You your self have given me a sufficient Reason, why neither the People, nor any part of them, ought then to have taken up Arms against the King; for if the Major-part were so well satisfied, as you make them to be, it was a sign that the Oppressions were either not General, or else but very light and easy to be born; and therefore (no doubt) they ought to wait the King's time when He would call a Parliament, rather than involve the Nation in a Bloody Civil War, which I never suppose lawful, but as the last and only Remedy (as our case lately was.) And besides all this, you know very well, that *Ship-money* (which was the Chiefest and most Illegal of these Oppressions) was declared to be according to Law by all the Judges of *England* in the *Exchequer-Chamber*, except Two, who I grant argued against it, with greater Law and Reason, than the Majority of them could produce on the other side; as appears by their Arguments, since printed in *Dr. Franklin's Annals*; yet, however, so long as the Judges are looked upon as the Interpreters and Declarers of what is Law in doubtful Cases in the Intervals of Parliament; I told you at our last Meeting, that whatever is done under such a Colour of Law, supported by their Determinations rightly given, ought not to be opposed or resisted by the Subjects, till their Judgment be Reversed, and Declared Illegal by Parliament.

But indeed you are somewhat mistaken in Matter of Fact; for though I admit that *Ship-money* was a very light Tax, in comparison of what we have felt since; and that most of those Imprisonments you complain of, fell only upon some particular Gentlemen and Merchants, who refused to pay *Ship-money*, and *Tonnage* and *Poundage*; yet was the Nation very highly dissatisfied for all that, when the *Scots* came in, especially after the Parliament (in 1640.) was Dissolved, because they would not agree to the King's demands, of *Fifteen* intire Subsidies for the *Scottish* War; and though 'tis true, the Nobility and Gentry attended the King in the first

Ex-

Expedition against the *Scots* with a seeming Alacrity, as they were by their Tenures bound to do ; and that there was also a Mercenary Army raised upon pay ; yet it is very plain, by the great unwillingness of the generality of the Soldiers, as well as Commanders, to fight against the *Scots* ; as also by the Intercession of the Major-part of the *English Lords* for Peace, and the mighty Joy which appeared at the Pacification : I say, it is very plain upon these Considerations, that most of the *English* Nobility and Gentry were not well satisfied with that War, because they very well knew, That when once the *Scots* were wholly subdued and brought under, the King might then take upon him to do even what He pleased with his *English* Subjects.

M. I shall not farther dispute what you say concerning this Matter ; but desire you only to consider, That according to your own Argument, if the Opinion of the Major-part of the Twelve Judges, in the Intervals of Parliament, be such a Declaration of Law to the People (how Illegal soever it might be in it self) as they ought by no means to gainsay or resist ; then by a parity of Reason, the taking up Arms by those Noblemen and Gentlemen who joined with the Prince of *Orange*, is not to be justified, seeing that the King had the Judgment of most of his Twelve Judges on his side, for his *dispensing* with the Act concerning the Oaths and Test.

F. I own what you have now said would have been close and home to the Case, had this been so declared by their Judgments upon a solemn Argument of the Point in the *Exchequer-Chamber*, as had been done in the Case of *Ship-Money* ; but it was so far otherwise in this, that you may very well remember, the King would not permit the Judges so much as to argue the Case, or give their Opinions in Publick, but only in Private in *Sergeant's-Inn* ; and that too after they had been Closeted by my Lord-Chancellor ; and those were turned out that would not be brought over to his Opinion, and such put into their places as promised to comply. And besides all this, the King's Declaration of Indulgence was not a Dispensation in one particular Case, or Act of Parliament alone ; but an actual *Suspension* of above Forty Penal Statutes at once, concerning Matters of Religion ; which, (as I have already proved) was as good
as

as downright *Abrogation* of them; and such a *Suspension* had been before declared unlawful in the Case of *Thomas and Sorril*, in the Lord-Chief Justice *Vaughan's* Reports, which I mentioned at our last Meeting. Now if you can shew me any thing like this done by King *Charles the First* in the business of *Ship-Money*, I grant your Objection to be good, otherwise not.

M. But pray give me leave to urge this Matter a little farther, concerning the Lawfulness of the War made by the Parliament, against King *Charles the First*, in defence (as they pretended) of their Religion and Civil Liberties, against the King's Usurpations upon both; for which they had a very spacious Pretence; that since the King had left the Parliament, not upon any direct or open Force, or Compulsion, but only upon a bare Surmise follow'd by a Declaration, that he thought he could not be safe any longer at *London*, for fear of the Tumults of the Rabble. Now when the Parliament had upon this declared, That His Majesty's Departure and Continuing from his Parliament, notwithstanding their Humble Petitions for his Return, was an Obstruction to the Affairs of *Ireland*; and that those who advised Him to go away, were Enemies to the Peace of the Kingdom, and justly suspected to be Favourers of the *Irish* Rebellion; and farther, upon his going to *Hull*, and his Hostile Preparations against that Place, the Two Houses had in a Declaration, published for their Justification, that all that Sir *John Horbarn* had acted in that Affair, had been done by their Order; and that the King's Proceedings were unsuitable to his Declarations of never having an intention to make War against the Parliament; and farther, upon His Majesty's issuing out His Commissions of *Array*, they Voted them contrary to Law, and against the Liberty and Property of the Subject; and that all those that acted in putting those Commissions in Execution, were disturbers of the Peace of the Kingdom, &c. and farther declared it lawful to resist by force of Arms, all those Noblemen and Gentlemen, who had endeavour'd to put it in Execution. And Lastly, His setting up His *Standard* at *Nottingham*, and marching with his Army towards *London*, was an evident Declaration of his actual beginning a War against them:

Who

Rush.
Hist. Col-
lect. Par.
3. Vol. 1.
P. 534.

Id. ib.
p. 611.

Id. ib. 658.

Id. p 766.

Id. 787.

Who then could the Nation better believe in this Case, than their Representatives in Parliament ?

So that, if you will suppose our present King *James* to have *Forfeited* or *Abdicated* the Kingdom, because the *Convention* hath lately declared so ; you ought then to quit your Old *Cavalier-Principles*, and to own the late War against King *Charles* the *First*, being only defensive on the Parliaments side, to have been just and lawful by like parity of Reason, as you said ; for surely a Declaration of both Houses of Parliament called by the King's Writ, ought to be looked upon as of much greater Authority, than that of a *Convention*, who have met and acted without any Legal Authority to call them together.

F. You have indeed played the part of a Stout Advocate for the *Presbyterian* Party in the Long Parliament, which I know you urge against me only as *Argumentum ad hominem*, whereby you would prove me an Apostate from my former Principles ; but I hope for all that, so far to vindicate the late Proceedings of the *Convention*, as to shew, that they have done and declared nothing in their Vote or Declaration concerning King *James*, but what may very well be justified upon my Old *Cavalier-Principles*.

In order to which, pray take notice, *first* of all, that I lay down, as a Ground of what I have to say on this Subject, That the greatest part of the Nobility and Gentry, who took up Arms on the behalf of King *Charles* against the Long Parliament, never believed any Absolute Irresistible Power in the King, or those commissioned by Him, if they acted against the known Laws of the Land ; for this indeed is a new Doctrine preached and set up since that time only to serve a Turn. *Secondly*, That the Nobility, Gentry, and People of *England*, who understood any thing of the Grounds of this Quarrel between the King and the Two Houses, by Fighting on the King's side, and Supporting his Cause, never intended thereby to make Him an Arbitrary Monarch, and to give him a Power over the Persons, Estates, and Liberties of the People of this Kingdom, but only (as His Majesty Himself set forth in all His Declarations) to Defend the King's just Rights, as also those of the Church of *England* Established by Law, both which were then invaded by that Parliament. *Thirdly*, That

That no sober Man of the King's Party did then (any more than we do now) suppose the Judgment, either of the Whole or Major part of the Parliament, to be an Infallible Rule of Law or Obedience, but only as far as it agreed with the Antient and Known Laws of the Kingdom; and hence it was that many Noblemen and Gentlemen, who were for the King, refused to yield Obedience to those Commissioned by the Parliament, according to their Ordinance for settling the *Militia*. And therefore as they refused to own the Power of the Parliament when it was Illegal, so I freely grant, That upon the same Grounds, both You, and I, and any considering Man have also the like Right to examine whether the late Votes and Declaration of the present *Convention* were according to the Antient Fundamental Constitution of the Kingdom, and the Publick Good and Safety of the Commonwealth, or not; for otherwise all the Discourses that You and I have had upon this Subject are altogether in vain, and to no purpose.

M. But to urge this Matter a little farther, if it be lawful (upon your Principles) for the Parliament, when Sitting, to be Judge of its own and the Peoples danger of losing their Religion and Civil Liberties, and of the King's Encroachments upon them; therefore when the King came to the House of Commons to demand and seize the Five Members, and had fail'd in the undertaking, they were never after that satisfied with his ceasing farther Prosecution, but judging themselves and the Nation in imminent danger, as long as the King had any power to hurt them, they would not be satisfied without the *Militia* of the Kingdom were wholly put into Commissioners of their own Nomination; especially when after the breaking out of the *Irish* Rebellion, &c. Sir *Phelim Oneale*, their General, pretended to shew the King's Commission for what they had done; so that (to argue on the same Principles) if the Nation were then in great danger, and that its Representative, the Two Houses of Parliament were the sole and proper Judges of this danger, then upon the King's refusal to pass a Bill to settle the *Militia* out of his Power into indifferent Hands, was certainly a denial of granting all means necessary for the Publick Peace and Safety of the Kingdom, and consequent-

ly the Parliament might upon the same Grounds justify their raising an Army to force it.

F. I confess you have urged all that ever was, or can well be said in Justification of the beginning of that unhappy Civil War by the Long Parliament ; yet give me leave to tell you, That I think it will not do the business ; for whenever the King and Parliament differ about the Exercise of any part of the Supreme Power, such as is that of the *Militia*, that great Power of the Sword, which when there is any dispute about it, or even when it is fear'd the King will abuse that Power to enslave the Nation, ought to reside in King and Parliament jointly ; whereas it became then divided, both the King and the Parliament separately claiming their Right to it. But at this present *Revolution*, the King being gone away without leaving any Deputy or Vice-gerent behind him, or Calling a Parliament before his Departure, the Question now arises, Whether by his Departure his Right to govern be lost or not ? And tho' the present *Convention* have determin'd that it is ; yet I must still own, That neither you nor I are obliged to stand to their Judgment any farther than former Presidents from History, and Declarations of Parliament, and Statutes shall incline us ; for we must not blindly take the ordinary Books of Reports (which are but the Opinions of private Judges) for Law in such great Cases ; therefore since Nothing but the Justice and Reason of the Thing ought to determine us in these Matters, I shall endeavour to examine them to the bottom.

Therefore the Parliament is not infallible, and always in the Right ; nor the King always in the Wrong, since that may fall out either way, according as either of them through an excess of Ambition or desire of Power on one side, or too much Encroachment upon the Prerogative on the other, may give the first occasion for a War ; I shall now comply so far with you, as to grant, That upon the breaking out of the Rebellion in *Ireland*, and the Queen, and those of her Party so notoriously favouring the *Papists* ; and that Sir *Philim O'neale* pretended to have the King's Commission to raise Rebellion, and Murther the *Protestants* in *Ireland*, together with the King's attempt to seize the Five Members, might then seem just occasions for the Two Houses

Houses of Parliament to desire to have the *Militia* settled in some hands, that they could confide in ; yet truly to determine, whether the King or Parliament were in the wrong, He in denying, and they still urging to have the *Militia* settled according to their own Pleasure, will give us occasion to look back and take a short view of the most material Transactions of those Times.

My next Business therefore , shall be to shew you, what great things the King had done to satisfy the Parliament and the whole Nation, that He did not intend to govern Arbitrarily, but to make a general Reformation of whatever had been amiss in the former part of his Reign. For at the beginning of this Parliament, besides the declaring of *Ship money*, *Tonnage*, and *Poundage*, with several Monopolies to be illegal ; he passed a Bill for *Triennial* Parliaments, by which in case of a failure of the issuing out of the King's Writs in due time, the Sheriffs were impowered to issue out Precepts for the Choice of Members to serve in Parliament, who were required to meet accordingly ; after this he passed that unparallel'd Act, which was indeed the main Cause of all the Wars and Confusions that followed, whereby under the pretence of giving the Parliament Credit to take up Moneys to pay off the *Scotish* and *English* Army, the King tyed up his own Hands from Proroguing, Adjourning, or dissolving that Parliament without their own Consents ; by which Act the Supreme Power became divided, and the Parliament made wholly independent on the King ; which indeed produced a great Alteration in the very Constitution of the Government it self, and at the same time (tho' with much difficulty) he passed the Bill of Attainder against his late chief Minister the Earl of *Strafford*, for certain Crimes and Misdemeanors, which certainly were not High Treason at Common Law.

Then the better to satisfy his People, the King within less then two Months after passed two Acts for taking away the *Star-Chamber* and *High-Commission* Court ; and having done all these unparallel'd Acts of Grace , he adjourn'd the Parliament, and went into *Scotland*, in order to quiet the late Commotions of that Kingdom.

But to let you see, that nothing less then the depriving of the King of his antient and undoubted Prerogative, would serve the turns of an unquiet Faction, you must know that during the King's Absence, this discontented Party in the House of *Commons*, took a fresh Occasion of aspersing his Majesty's Government, by contriving a Petition with a Declaration, called a *Remonstrance* of the State of the Kingdom; which being brought into the House of Commons at their re-sitting after their late adjournment, was passed by a very small Majority of Votes, notwithstanding Sir *Edward Deering's*, and divers other worthy Member's arguing and protesting against it; so that the Debate lasting from Three of the Clock in the Afternoon, till Ten the next Morning, it caused many of the Members thro' weakness or weariness to leave the House before they came to a Vote; which made Sir *Benjamin Rudyard* compare it to *the forced Verdict of a starved Jury*; which being presented to the King, contained an Invidious Repetition of all the pass'd Miscarriages and Grievances of his Reign, though they had been all, or most of them either long since over, or already redressed, and taken away either by particular Acts, or Votes of Parliament. This Declaration, and the Petition, tho' they were answer'd by another, published by the King for that purpose; and written with great Strength of Reason; yet their Paper had so far obtain'd the end for which it was publish'd, as to render his Government and Ministers odious to a great many well-meaning People, who gave entire credit to whatever their Representatives had set forth.

But indeed all this tended towards their main end of getting the *Militia* into their own hands, since they then knew when they had that, they could easily accomplish whatever else they had a mind to; and for this purpose some of that Faction invented and spread abroad divers horrid Plots and Conspiracies against the State; of which the House of Commons had several false Informations, and seem'd to give Credit to them: As that a great multitude of *Papists* and other *Malignants* being about to rise in Arms; also of great Forces to be sent out of *France* and *Denmark*, to assist the King, to enslave the Nation, and alter the Religion Established; of which Reports there was not a word true, as the People were afterwards convinced of, when it was too late.

Yet

Rush. ib.
437.

Whitel.
Mem.
P. 49.

Dugdale's
Short View,
&c. p. 78.
See the Answer at
large.
Rush. ib.
p. 452.

Id. p. 76,
27.

Yet at present these Stories had so far wrought the Effect for which they were raised, that divers Apprentices, and others of the meaner sort of the City of *London* coming down in great Multitudes to *Whitehall*, and *Westminster*, Petition'd against the Bishops, and demanded them to be excluded the House: Which Clamours with other sawcy reflecting Language against the King, so far provoked him, that He thereupon Issued out his Proclamation against such Tumultuous Assemblies, as contrary to Law, and at the same time by the Advice of the Judges, he Issued forth an Order to the Sheriffs of *Middlesex*, and Justices of Peace of *Westminster*, for the setting of a Watch, or a Guard about the Hall; and Parliament House; at which, when it came to be put in Execution, the House of Commons took offence; and having Examined the Constables and Under-Sheriffs that set the said Watch, they Voted it a breach of Privilege, to set Guards about their House without their Consent; and thereupon sent their Sergeant to them, to order their discharge; and Mr. *Long*, a Justice of *Westminster*, who had Sign'd the Warrant, was sent to the *Tower*, as having exceeded the Authority given him by the Writ, in sending down armed Men to the Parliament-House, without acquainting them with the same; and yet, which was more strange, a few days after, they thought themselves in such danger of a *malignant* Party (as they call'd them) that they address'd to the King, that they might have a Guard out of the City, to be commanded by the Earl of *Essex*; which Request being denied, and civilly put off by his Majesty as unnecessary, they thereupon order'd Halberts to be provided and brought into the House for their better Security; but the Truth was, the Faction look'd upon themselves in no danger from that Party of the *Mob*, that cried out against the Bishops, tho at the same time they insulted both the King and the Lords that were not of their Party; whilst the same Men pretended they were afraid of having their Thoats cut by certain *Malignant* Officers of the late Disbanded Army: But this was only a pretence, in order to put the Nation into a posture of Defence under confiding Persons of their own Nomination, and to get the *Militia*, or whole Force of the Nation into their own Hands.

Id. p. 78.

Rush. ib.

p. 462.

Id. p. 466.

Id. ib. 456.

Dugd. ib.

Rush. ib.

p. 471.

M. I think

M. I think so far you are in the right : Pray go on to shew by what means they obtain'd it.

Dugd. ib.
p. 81.

F. I shall proceed to do so in as few words as is possible for the true Relation of so many, and so various Transactions, as quickly follow'd each other. When the King found that there was a malicious, prejudiced, and turbulent Party in both Houses, who made it their business, instead of healing the breaches between the King and them, to make them wider, and the Ring-Leaders of this Faction were the Lord *Kymbolton* in the House of Peers, and in that of the Commons Mr. *Hambden*, Mr. *Pym*, and Three others whom I need not particularly Name, and who were also believed by His Majesty to have had a Chief hand in exciting the *Scots* to take up Arms, and enter *England* as they had done : Wherefore He thought fit by his Attorney-General to Impeach those Members at the Bar of both Houses, of High-Treason, upon Seven Articles then exhibited ; and then for the better Prosecution of this Accusation, He had commanded their *Chambers* and *Studies* to be searched, and their Trunks with their Papers to be Seal'd up. This was not only Voted a high Breach of Privilege by the House of Commons, but the Lords also thereupon ordered, that they should be forthwith opened and delivered to their Owners ; and when the King did by his Sergeant at Arms demand the said Members to be taken into Custody, they were so far from complying with that demand, that the Speaker by the Order of the House commanded them to attend *de Die in Diem*, till the House should take farther order about it ; so that, tho' Treason, Felony, and breach of the Peace, have been at all times excepted out of the Privileges of Parliament ; yet, it seems, the Law was otherwise with them, and they declared that none of their Members were to be seized on any account whatever, without the leave and consent of the House of Commons. Wherefore, when the King found he was not like to obtain any thing by his Impeachment, unless these Members could be first secured, He was by the Queen, or some others near about him, put upon a rash and violent Action, which was to go in Person to the House of Commons, not only to demand, but seize the Persons of the Five Members ; which, being attended with his Guard of Pensioners, and about Two hundred

Rush. ib.
p. 473,
474.

Id. p. 476.

Whitl. ib.
p. 50.

dred other Courtiers, and Gentlemen Arm'd, with Swords and Pistols, he endeavour'd to perform ; but when the King came into the House of Commons, he found none of those Members he look'd for ; for they having notice of his coming, were withdrawn before he could get thither. But as I do not justify the King's Proceedings in going to the House of Commons in Person to arrest those Members, since the King cannot in Person execute the Office of a Messenger, or other Inferior Officer ; for then there could be no Person left to whom the Subject might Appeal ; so this much may be said in his excuse, that He did not take this course till he found all other gentle Methods utterly desperate.

But to proceed : When upon the Votes of the House of Commons, that this Action of the King's in coming to the House in a warlike manner to seize their Members, was a high breach of Privilege ; and when, upon the several Petitions from the City, and divers Counties in their behalf, they were brought by a Rabble of Watermen, and other desperate Fellows, as it were in Triumph, then he found it in vain to prosecute his Impeachment against them any farther ; and so he gave the House of Lords, and Commons notice, That He would, for the present, not only wave his former Proceedings ; but, as a farther Testimony of his unfeigned Intentions towards his People, for the better composing of this matter, and removing all their Fears and Jealousies, he offer'd to grant such a General Pardon to all his Loving Subjects, as should be thought convenient by both Houses. But this was refused by the Commons, and nothing would serve to quiet their Minds ; but being full of needless Fears and Jealousies, put into their Heads by false Reports, and feign'd Letters of strange designs to seize on, and murder the Members of Parliament, they not only ordered a Guard for their own safety, consisting of the City Trained-Bands, under the Command of Colonel *Skipton* ; but likewise ordered a Guard to be set upon the *Tower*, that so no Ammunition nor Provisions should be carried from thence, without the Authority of Parliament : And also that Sir *John Hotbarn* should take the Command of the Town of *Hull*, and secure (that is, seize) the King's Magazine of Arms there, and should not deliver them without the King's

Id. p. 479.

Dugd.
p. 82.Rush.
p. 488.Rush. Hist.
Col. Part
3. Vol. 1.
p. 469.
Id. ib. p.
496.

Vid.
A Short
View of the
Troubles.
&c. p. 85.

Rush ib.
p. 516.

King's Authority signified to him by the Two Houses of Parliament: Which was indeed to take away the Command of the King's Arms and Stores, bought with his own Mony, without any just Cause shewn, except, as I said before, their own causeless Jealousies. But the better to discover the Steps this Faction took to get the *Militia* of the Kingdom into their own hands, I shall now look back to what was done a little before this; when the City and Nation were put into a strange Ferment by the above-mention'd false Reports, that same Party in the Two Houses excited under-hand divers of the meaner sort of the City of *London*, and County of *Middlesex*, as well as other Counties to petition the Parliament, That all Papists should be disarm'd; that all Bishops and Popish Peers should be excluded out of the Lord's House, and the Kingdom speedily put in a posture of defence; and to this end, that the *Militia* should be committed to such hands as the Nation might most confide in. Now to quiet and satisfy the House of Commons, and City, whose Minds were still much disturb'd about the business of the Five Members, the King on the Twentieth of *January* sent the Two Houses of Parliament a most gracious Message in Writing; wherein he proposed, 'For the
' preventing the Distractions that were now likely to ensue,
' that they should fall into a serious Consideration of such
' Particulars as they should judge necessary for the uphold-
' ing and maintaining His Majesty's Just and Regal Autho-
' rity; the settling of his Revenue; and for the present and
' future Establishment of their Privileges; the Quiet and
' Free Enjoyment of their Estates and Fortunes; the Li-
' berties of their Persons; the Security of the true Religi-
' on professed by the Church of *England*, and appointing of
' Ceremonies in such a manner as may take away all just
' offence; which when they shall have composed, and di-
' gested into one entire Body, that so His Majesty and
' themselves may be able to make the clearer Judgment of
' them, it shall then appear, by what His Majesty shall do,
' how far He hath been from intending those things which
' the great Fears of some Persons seem to apprehend; and
' then how ready he shall be to exceed the greatest Exam-
' ples of the most indulgent Princes; and concludes, That
' if the present Distractions which apparently threaten the
' Ruin

' Ruin of this Kingdom, do not end in a happy Accom-
' modulation, His Majesty shall call Heaven and Earth to wit-
' ness, that it hath not fail'd on His part.

To this reasonable Proposal, the House of Commons *Id. ib.*
alone, Return an Answer, by way of Petition, to this *p. 517.*
Effect: ' That to give them a sure Ground of Safety and
' Confidence, of what he would be pleased to do, He should
' forthwith put the Tower of *London*, and other Principal
' Ports, together with the whole *Militia* of the Kingdom,
' into the hands of such Persons as should be recommended
' to him by the Petitioners (*viz.* House of Commons.)
But the King being unwilling to part with those Powers
and Prerogatives which his Predecessors from time imme-
morial constantly enjoy'd, Replied to this purpose, That He
hoped His last Gracious Message to both Houses would
have produced a better Effect. As to the Tower of *London*,
His Majesty did not expect, having preferr'd a * Person of * *Sir John*
Known Fortune, and Unquestionable Reputation, to that *Biron.*
Trust, that He should be press'd to remove him without any
particular charge laid against him; yet if upon due Exa-
mination it should appear, ' That his Majesty was mistaken
' in his Opinion of this Gentleman, He would make no
' scruple to discharge him, which otherwise he shall be
' loth to do; That as for the Forts and Castles of the
' Kingdom, his Majesty is resolv'd they shall always be in
' the hands of such Persons as the Parliament may confide
' in; but the Nomination of the Persons to those Places,
being a principal and inseparable Prerogative of the Crown,
derived from his Ancestors by the Fundamental Laws of the
Kingdom, &c he will reserve to Himself: And then proceeds:
' That as for the *Militia*, (which by Law is subject to no
' Command, but that of His Majesty's, and of the Authority
' lawfully derived from him) when any particular Course,
' for the ordering the same (which his Majesty holds very
' necessary for the Peace and Security of his Kingdom) shall
' be propos'd to Him, He will Return such an Answer, as
' shall be agreeable to his Honour, and the safety of his
' People; being resolv'd only to deny those things, the
' granting of which would alter the Fundamental Laws,
' and endanger the very Foundation, upon which the Pub-
E lick

' lick Happiness and Welfare of His People is Founded and
 ' Constituted, and would nourish a greater and more de-
 ' structive Jealousy between the Crown and the Subject,
 ' than any of those, which seem to be taken away by such a
 ' satisfaction; and then further goes on, that He found his ha-
 ' ving granted more than ever any King had done before; en-
 ' couraged His House of Commons to ask more of Him than
 ' ever Subjects had asked: Yet, however, if they shall think fit
 ' to acquaint Him with the particular Grounds of their
 ' Doubts and Fears, He will very willingly apply Remedies
 ' proportionable to those Fears; for His Majesty calls God
 ' to witness, That the preservation of the Publick Peace,
 ' the Law and Liberty of the Subject, is, and shall always
 ' be as much His Majesty's Care and Industry, as His own
 ' Life, or the Lives of His dearest Children: *Then He con-*
 ' *cludes,* with conjuring the House of Commons by all the
 ' Acts of favour they have received from Him; as also by di-
 ' vers other Motives, that they would not be Transported by
 ' fears of impossible Dangers, to put themselves or His Maje-
 ' sty into real and present Inconveniences; but that they would
 ' speedily pursue the way proposed by His Majesty's former
 ' Message; which in humane Reason is the only means to
 ' compose the Distractions of the Kingdom, and with God's
 ' Blessing to restore a great measure of felicity to King
 ' and People.

Dugd.
 Short
 View,
 p. 85.

But the Faction in the *Commons-House* was not at all sa-
 tisfied with this Reasonable and Moderate Answer; and
 not having as yet been able to procure the House of Peers
 to consent to joyn with them in their farther Petitioning His
 Majesty for the *Militia*, they desisted from returning Him
 any Reply for some time, till they were again backed and
 encourag'd by several Petitions from those of their Party in
 the City, and divers Counties of *England*; and had by that,
 and several other Artifices, obtain'd a Majority in the House
 of Peers, to join with them in another Petition for putting
 the *Militia* wholly out of His Majesty's Power.

M. I should be glad to understand by what means there
 was so sudden and so great an Alteration wrought in
 so Judicious and August a Body as that of the House of
 Peers.

F. I shall

F. I shall comply with Your desires ; and to make You the better to understand it, You may please to take Notice, That this could never have been brought about, had not several of that Great Council been either Clapt up in Prison, and divers of the Popish and other Lords fright'ned from coming to the House by the Tumults and Petitions of the Rabble ; but as to the Bishops You may remember, That they having been several Times not only Menaced, but also violently Assaulted by a rude Multitude of Apprentices, and other ordinary Fellows, that came down in great Numbers, Arm'd with Staves and other Weapons, under pretence of Petitioning against the Bishops and Popish Lords their Votes in Parliament ; so that the former thinking it from thenceforth not safe for them to come any more to the House, till the Cause of their just Fears were removed too ; and Twelve of the Bishops (of whom the Archbishop of York was the chief) presented a Petition and *Protestation* to the King and House of Peers ; setting forth their undoubted Right to Sit in Parliament ; and demanding His Majesty's Protection for the same, declared their hatred to Popery ; and that so long as they shall be thus Menaced and Assaulted, they cannot attend to perform their Services in the House ; and therefore protest against all Laws, Orders, and other Proceedings, that have, or shall be, passed in their Absence.

Rush. ut
sup. p. 466.

This Petition being delivered by the said Archbishop of York, and the other Bishops ; and the House of Peers taking offence thereat, the House of Commons laid hold on that advantage, so as thereupon to Impeach all those that had Sign'd it of *High-Treason* ; and the Peers also too much resenting it, they were by their Order not long after (all except Two who were committed to the *Black-Rod*) sent to the Tower, where they continued till such Time, as the King had passed the Bill for disabling them and the rest of the Bishops to Sit and Vote in Parliament, and then they were discharg'd ; for the Faction having obtain'd the End, for which they had accused them, they were prosecuted no farther, but were all set at liberty except the Archbishop of Canterbury, and Bishop of Norwich, who had been sometime before committed upon another account ; and the former of these continued close Prisoner for near Three Years after,

Ib. p. 467.

until he was Beheaded, and the latter for near Twenty Years, without ever being brought to Tryal ; but this by the by ; only You may observe, That the rest of the Bishops and Lords who looked upon themselves as obnoxious to the Faction, either forbore coming to the House at all ; or else, if they came, durst not oppose the Designs that were then so furiously driven on :

Dugd.
p. 85, 86,
87, 88.

Nor did the Party rest contented yet, till they had stirred up and procured several Factionous Petitions from the City of London, and the Counties of *Essex, Hertford, Suffolk, Northampton, Kent, Oxford, Lincoln, and York*, some complaining of the loss and deadness of Trade ; and others that there was no Redress to be expected, unless the Bishops and Popish Lords were put out of the House ; whilst others desired that the Kingdom should be put into a posture of War ; and the Faction having laid such a Foundation for the carrying on their Designs, by ensnaring the People with their own Petitions, which were delivered by many Thousands in Person ; as also from several false Stories and Reports of dangerous Plots and Designs of the Papists in *Lancashire*, and other Places : It struck such a Terror in the Lords that remain'd in the House, that upon Mr. *Hollis's* again moving them at a Conference *that their Lordships would now join with them, without any farther delay in petitioning His Majesty, that the Kingdom should be put into a posture of Defence ; that, I say, the Lords, who refused to join with them at first in their Petition of the Six and twentieth of January,* were so far brought about, that the Majority of them at last consented to it, being presented to the King on the Second of *February* ; which was to this Effect.

Rush.
p. 518:

' In the first place they set forth the present Evils and
' Calamities wherewith His Majesty's Kingdoms were most
' miserably entangled, and the imminent Dangers, which
' (as they pretended) threat'ned His Royal Person ; and
' tho' they seem'd to receive His Majesty's late Proposition of
' the 20th of *January* with great Thankfulness, and would
' withearnestness of Affection endeavour to persue the same ;
' yet for the Safety of His Royal Person, preserving the
' Honour and Authority of His Crown, and removing all
' Jealousies betwixt His Majesty and His People ; suppressing the Rebellion in *Ireland* ; preventing the Fears and
' Dan-

' Dangers in this Kingdom, and the mischievous Designs of
 ' those who were Enemies to the peace of it : They still in-
 ' sisted, That for the accomplishing their Duties therein
 ' with more Comfort and Security, His Majesty would
 ' be pleased forthwith to put the *Tower of London*, and all
 ' other Forts, with the whole *Militia* of the Kingdom, into
 ' the Hands of such Persons as should be recommended unto
 ' His Majesty by both Houses of Parliament; and which they
 ' assure themselves would be a hopeful entrance into those
 ' Courses which (through God's Blessing) would be effe-
 ' ctual for the removing all Diffidence and Misapprehensions
 ' betwixt His Majesty, and His People; and (as they said)
 ' for Establishing and Enlarging the Honour and Greatness
 ' of His Royal Posterity: And then conclude, that they ex-
 ' pect His Majesty's Speedy and Gracious Answer, the great
 ' Distractions and Distempers of the Kingdom not admitting
 ' any Delay.

The King being much surprized to find the House of
 Lords now brought over to the same Sentiments with the
 Commons; and that His late so reasonable Proposals to Both
 Houses had met with so unsuitable a Return, seem'd how-
 ever not at all Transported at it, but soon gave them a short, Id. p. 519.
 but very handsome and reasonable Reply to this Effect; ' That
 ' having well considered their Petition; and being desirous to
 ' express how willing he was to apply suitable Remedies, not
 ' only to their Dangers, but even to their Doubts and Fears :
 ' He therefore Return'd an Answer, That when He should
 ' know the extent of the Power which was intended to be
 ' Established in those Persons whom they desired to be
 ' Commanders of the *Militia*, in the several Counties, and
 ' likewise to what time it should be limited; that no Power
 ' should be executed by His Majesty alone, without the Ad-
 ' vice of His Parliament: Then He would declare, ' That
 ' (for the securing them from all Dangers or Jealousies)
 ' His Majesty would be content to put into all places, both
 ' of His Forts and *Militia* in the several Counties, such Per-
 ' sons as both the Houses of Parliament should either ap-
 ' prove of, or recommend to Him; so that they declare
 ' before to His Majesty, the Names of the Persons whom
 ' they should approve of, or recommend, unless such Per-
 ' sons.

' sons should be named, against whom He should have just
' and unquestionable Exception.

Id. ib.

But to return again to the Matter of Fact: So soon as the Faction saw it self thus back'd and encouraged in the Two Houses, they then join'd in an Ordinance to regulate the *Militia* of the City, which was the first Encroachment they made upon the King's Prerogative in this Kind; and to second this, they again petitioned the King for settling the *Militia* of the several Counties, on such as they had nominated, giving him at the same time a List of the Names of those whom they design'd for Lord Lieutenants in the several Counties, being all of them of their own Party.

Rush.
p. 820.

The King respited his Answer, till his return from *Dover*, whither he had accompanied the Queen and his Daughter, that were then going for *Holland*; and at the same time they presented him with a Form of an Ordinance, whereby they would have settled the *Militia* of the Kingdom in the hands of those Lords they had already nominated: But when the King demurred to grant it, they pretended to be so transported with Fears and Jealousies, by certain feigned Reports of dangerous Plots design'd by the Papists, to burn down divers of the chief Cities and Towns in the Kingdom, ' That they thereupon dispatch'd away another Petition to His Majesty (still at *Dover*) for ordering the *Militia*: To which they desired such a speedy Answer, as might ' raise in them a Confidence (to use their own words) that they ' should not be exposed to the practices of those, whose endeavours ' were to kindle that Combustion in England, which they had in ' so great a Measure effected in Ireland; and which nothing could ' do (as they said) but the granting that Petition.

Id. p. 521.

Id. ib.

' His Majesty's Answer thereunto was just and moderate, ' That as for the City of *London*, and other Corporations, ' which by any antient Charters had power of ordering the ' *Militia*, He conceived it unfit to alter their Government: ' but that he could not consent to the indefinite time propounded for this Posture of Defence. On this refusal they ' Voted this Answer to be unsatisfactory, and as good as a ' flat denial; and that His Majesty's Advisers thereto were ' Enemies to the State, and mischievous Projectors against ' the defence of the Kingdom: Also that this denial was of ' such

Dugd.
p. 88.

' such dangerous Consequence, that it would hazard the
' Peace and Safety of all his Kingdoms, unless some speedy
' Remedy were applied by the Parliament, And immediately
they sent another Petition to His Majesty (who was then at
Theobalds) wherein they protested, That if he did not speedily
pass his assent to the Satisfaction of their Desires, they
should be necessitated to dispose thereof by Authority of
both Houses; and that they did accordingly so resolve
to do.

And they farther Voted, That the Kingdom should be
forthwith put into a posture of Defence, by the Authority
of both Houses: And that the Navy should be speedily
Rigg'd under an Admiral of their own Nomination, and
a Declaration of the Reasons of their just Fears and Jeal-
ousies, should be forthwith drawn up; declaring the
Grounds of their former Votes, for putting the Kingdom
into this Posture, by Authority of both Houses, to secure
them for the future from all Mistrusts and Jealousies.

And to carry on this, under Colour of the Peoples de-
sires, divers new Petitions were daily brought up from se-
veral Counties; as one from *Staffordshire*, pretending such
dread of Papists rising there, that every Man was con-
strained to stand upon his Guard, not daring to go to Church
unarm'd; others from *Worcestershire*, *Berkshire*, *Norfolk*; as
also from *Norwich*, *Lynne*, *Salop*, &c. all of them earnestly
desiring this posture of Defence:

So that the Faction being highly encourag'd by these Pe-
titions, the Ordinance for ordering the *Militia* of the King-
dom, by Authority of both Houses, was the very next day
assented to by the Lords; and thereupon new Lieutenants
were by them Nominated throughout all *England* and *Wales*,
without His Majesty's Consent.

And having in a Grand Committee Sitting at *Merchant-
Taylors-Hall*, contrived the Declaration (mentioned in their
Votes of *March the Second*;) wherein they made a very great
Noise of a design to alter the Religion in this Kingdom;
and that the Wars with *Scotland* and *Ireland*, were framed to
that end; They presented the same to His Majesty, first at
Theobalds, and then again at *New-Market* within a few days
after; which being then denied, they Voted the Kings
Commissions of Lieutenancies in the several Counties to be
Illegal;

Id. p. 89.

Id. ib.

Id. p. 89.

Rush.

P. 523.

Illegal, tho' they had not been altered since this Dispute; as also, that there was an urgent and inevitable Necessity, for putting His Majesty's Subjects into a Posture of Defence; and that the Ordinances of both Houses for the *Militia*, being obliging to the People, ought to be obeyed by the *Fundamental* Laws of this Kingdom. And *Lastly*, That the Earl of *Warwick* should be appointed *Vice-Admiral* of His Majesty's Ships, tho' he did by no means approve of him.

M. But, pray, Sir, Tell me what were the Motives that persuaded His Majesty to leave *London*, and travel Northward at a time when the Grand Affairs of the Nation, rather requir'd His Presence with His Parliament, to compose the Differences that were now begun between them?

F. To do this, it will be requisite to look back a little, and give you a more exact Relation of these Transactions. That His Majesty sometime before thinking His Person in danger, and His Authority expos'd, by these exorbitant Courses; as also by the frequent Tumults and Affronts from the Mobb (as has been already related) did not think it safe to return any more to *London* after His going down to *Dover* with the Queen; but coming no farther than *Greenwich*, He sent for the Prince and Duke of *York* from *Hampton-Court*, to meet Him there: And during His short stay at that place, He sent the Two Houses His Answer to their Petition concerning the *Militia*; shewing the Inconveniences and Breach of His Right to have it settled as they desired: From whence he went to *Theobalds*, where He received that bold Petition of the Two Houses above mentioned; and being removed from thence to *New-Market*, on the Ninth of *March* the Earls of *Pembroke* and *Holland* were sent thither to Him with that yet more bare faced Declaration of the Two Houses already mention'd; setting forth the King's Misgovernment and unjustifiable Actions (as they call'd them) and in which they ripp'd up all that could be thought of, to Misrepresent His Person and Government, being to this Effect.

Whitl.
p. 54.
Rush. ib.

1. By attempting to incense the late *Northern* Army against the Parliament, *Fermin's* Treasonable Actions, and Transportation by the King's Warrant.

2. The

2. The Petition delivered to Captain *Leg* by the King's own Hand, and signed C. R.

3. The business of the Lord *Kimbolton*, and the Five Members. The suspicious design of a Guard about the King's Person. The under-hand promoting the *Irish* Rebellion.

4. The ordering of Sir *John Pennington* to land the Lord *Digby*, thereby to alienate the King from his Parliament; and to procure Foreign Assistance to the King; this appeared more credible by his Removal from *London* with the Prince; and the many Advertisements from *Rome*, *Venice*, *Paris*, and other Parts, of great Foreign Aid to be given to the King, in reference to some grand Design against the Protestant Religion, and the Parliament; tho, (as it proved by the Event,) there was no such thing ever design'd or transacted abroad.)

Then they desire the King to put away his wicked Counsellors, and to put his Trust in the Parliament; which if he would do, they would sacrifice their Lives, Fortunes, and utmost Endeavours to the Supportation of his Sovereignty. Id. ib.

The Lords that then attended his Majesty with this Petition, moved him to come nearer to the Parliament; but it was refused. And when they further urged, that the *Militia* might be granted, as was desired by the Parliament, for a time; his Majesty replied with an Oath, *No, not for an Hour*; so jealous was He of that great and important Power of the Sword; which no wise Prince can or ought altogether to trust out of his own hands. Then he told them in short, That as their Fears, Doubts, and Jealousies were such, as he must take time to satisfy the whole World to be needless; so his own were not trivial, occasioned by so many scandalous Pamphlets, seditious Sermons, and sundry publick Tumults, hitherto unenquired into, and unpunish'd.

Then a few days after, so soon as his Majesty came to *Huntington*, he publish'd a Declaration for further Answer to theirs, to this effect:

1. That he had no Evil Counsellors about him; but leaves such to their Censure, where they should find them.

2. That he wish'd the Judgment of Heaven might be manifested upon those who had any Designs against the Protestant

stant Religion : And as to the *Scottish* Disturbances , they were already silenced by the late Act of Oblivion.

3. That the charging him with any Inclinations to the *Irish* Rebellion, was a high and causeless Injury.

4. That he never intended to exasperate the late Army, or to use them against the Parliament.

5. That he signed Captain *Leg's* Petition, only to satisfy the Army ; and Sir *Jacob Ashley* of his Opinion, of the reasonableness of it.

6. That *Digby* and *Fermin* were not at *Whitehall*, nor had any Warrant from him, after their Restraint.

7. That he had given sufficient Answers about *Kimbolton* and the Five Members, enough to satisfy any reasonable and unprejudiced persons:

8. That the care of his own Safety caused him to raise a Guard at *Whitehall*, and to receive the Tender of the Service of the Gentlemen of the Inns of Court : And that he looked upon those Foreign Advertisements to the Parliament, as false, idle, and incredible Stories.

Whilst the King continued at *Huntington*, he sent a Message to the Two Houses, *March 15*. That he intended to make his Residence for some time at *York*, and desired them to hasten their Succours for *Ireland*, and not upon any pretence of an Ordinance, to which his Consent was not given (as by Law it ought) to act against Law, which He himself was to observe, and his Subjects to obey.

Notwithstanding which, the Parliament voted their Ordinance for the Defence of the Kingdom, not at all prejudicial to the Oath of *Allegiance* , but to be obey'd, as being agreeable to the *Fundamental* Laws ; and the King's Commands for the Lieutenantcy over the respective Counties to be illegal and void ; which was indeed a downright forcible disseizing and ousting of his Majesty of his just Right and Prerogative of the *Militia* of the Kingdom, and necessary Defence of it, as well as his own Person and Authority.

M. I cannot deny but that you have given a fair Account of all the considerable Transactions relating to this great Affair of the *Militia*, which was the chief ground of that unhappy Quarrel between the King and the Two Houses ; yet give me leave to urge what I have heard several well-meaning

meaning Persons to observe, concerning His Majesty's leaving *London*, and going to *York*; that it was a great wonder to all prudent Men, That the King should leave the Capital City, the place of His and His Predecessor's usual Residence; where most of His Friends and Servants were about Him; the Magazine of all Provisions both for War and Peace; the Seat of Intelligence and Supplies; and betake Himself to the Country; where these things were scarce to be had. And by His leaving the Town, bring great Troubles and Disadvantages upon Himself, and His Affairs; unless He had fully resolved before ever He had left the Town, to have begun a War against the Two Houses.

And whereas You alledge, That His Majesty could not be safe at *Whitehal* by reason of the Tumults and Insults of the Mob: I pray tell me, Why He might not have secured Himself sufficiently against them, either by continuing at *Hampton-Court*, or else by removing to *Windſor*; which, besides the distance from *London*, is a place of that competent Strength, that He might have continued safe enough there against any Attempts, except a formal Siege; tho' the Citizens and Apprentices should presume to come down thither to Petition Him with Arms in their Hands? And admit they had made any Assault upon the place, they could have done Him no prejudice; since at the worst, besides His own Ordinary Guards, He might have ordered the *posse Comitatus* of the Adjacent Counties to come in, and suppress those Tumultuous Forces. But instead of this, the King went away to *York*; and tho' the Two Houses, as well before He went, as after His arrival there, often petitioned Him to return to them; yet he still refused to do it; and so the War began (as they said) by His raising a Guard of the Gentry, and People of that County, for the Security of His Person, and going to seize Ammunition at *Hull*, when no Army was as yet raised against Him.

F. I confess what you now urge does carry a considerable Shew of Reason with it, and was much argued *Pro* and *Con*, by the Politicians of those Times: But if we may give the King the liberty (as every Man else ought to have) of judging of the Greatness of His own danger; and since

(as Your self confess) He could not be safe at *Whitehal*, by reason of the Tumults of the Rabble, it might have been as hazardous for Him to have stay'd any where else so near the Town: For suppose the City Rabble had come down with Arms in their Hands to *Hampton-Court*, and *Windsor*, to petition Him to grant the Two Houses the Command of the *Militia*, or any thing else they had a mind to, the *Posse Comitatus* you mention would (I doubt) have stood the King in little or no stead; and have hardly suppress'd them; since the Common People of most of the Adjacent Counties had (as appeared by their late Petitions) been as much poison'd and prepossess'd against the King, as the People of *London*; so that He might have been Assaulted and Imprison'd, nay, taken in His own House; and the Parliament might (for ought I know) have taken their parts that did it, and declared, That they were not to be kept out, or denied those Petitions, which the Two Houses had Voted to be according to Law, as well as they had done before, when the King after a great Concourse of the Rabble coming down to *Westminster*, cried out no *Bishops*, and gave saucy Language to Himself: Therefore, for the better prevention of any more such dangerous Tumults and Uproars, so near His own Palace, and the Two Houses of Parliament, He had directed His special *Writ*, unto the Sheriffs of *London*, to place a Guard at *Westminster*. But the House of Commons presently Voted it to be a Breach of their Privileges, and an Offence of an High Nature; and thereupon not only order'd the said Watch to be Discharg'd, but Questioned and Committed the Justices for setting it, as hath been already related. Now what can be a more expresse Proof, That the prevailing Faction in the House of Commons were so far from suppressing, That they rather encourag'd those Tumults, and thereby not only took away the Liberty and Safety of both Houses of Parliament, but also rendred it unsafe for the King's Person to remain in His own Palace?

But as for His Majesty's going down to *York*, and His farther Proceedings after He came thither; I shall for His clearer Justification, give you a short Account of them. As to the business of *Hull*, and the King's taking a Guard at *York* for the Security of His Person, there will be, I hope, little

little need to doubt, Whether the King might not very well justify His Actions at that time, and in so dangerous a Conjunction; for He now plainly saw, That the Parliament had already endeavour'd to get the *Militia* of the Kingdom both by Sea and Land into their own Hands; whereby they might, whenever they pleased, compel Him to do what they had a mind to; it was sure then high time (if ever) to prevent them from seizing all the Magazines of the Kingdom, and to secure somewhat whereby He might be able to manage a Defensive War, in Case they should proceed to extort the whole Power of the *Militia* by force. Therefore since those Arms in *Hull* were His own proper Goods, being bought long since for the War against the *Scots*, He might, I think, dispose of them to any use He pleased, unless it were to make War upon His People; which he always utterly disavow'd and declared against. And therefore for Sir *John Hotbham* to presume to shut the King out of His own Town, though He offer'd to enter it but with Twenty Horse, was certainly an Act of downright Rebellion; for he might as well have shut Him out of any other, nay, all the Towns of *England* as That; so that this Act alone could be no Declaration of His Intention to make War against the Parliament; especially after Sir *John Hotbham* had also summoned the *Trained-Bands* of the Adjacent Country to come in to His Assistance; besides those Forces that he had already brought with Him from *London*, before the King had done any Hostile Act upon that place: All which was as plain and open Declaration of War against the King, as any could be, unless he had actually discharged the Cannon on the Town-Walls, against His Majesty. Therefore upon these Proceedings the King might be very well justified, if He also rais'd all the *Militia* of *Yorkshire*, to reduce that place to His Obedience: For if the Parliament by their own Authority could keep the King out of His own Town by force, they might as well have appeared in Arms against Him in the open Field, as they did not long after.

M. But I suppose You are sensible enough what they insisted on in their Justification of this Action, *viz.* That though Sir *John Hotbham* did first keep the King out of *Hull* by their Order; yet this (said they) was only done to prevent

prevent His beginning the War upon them, which they were very well satisfied He designed, when He went into the *North*: And this (they say) was evident by several of His Actions: For else to what purpose did He send the Queen into *Holland*, with the Princess Her Daughter; together with the Rich and Antient Jewels of His Crown, and divers Pictures of great Value, which were there Pawned, or Sold outright, and the Money laid out to buy Arms and Ammunition, which She brought over with Her not long after, when She Landed at *Burlington-Bay* in *Yorkshire*? Or to what end else did the King leave His Parliament, and go to *York*; and there under the Colour of a Guard for the Security of His Royal Person, raised Forces which in a little time after increased to an Army? And admitting it to be true, That the Parliament first Issued out Commissions for raising of Men, and mustering the *Militia* for their Service; yet it was not till the King had endeavoured to enter *Hull*, to seize the Arms that were laid up in that place, and also till there had been divers Bickerings and Skirmishes in several Counties between the *Militia* that had been Muster'd, and Commanded by the King's Commissioners of *Array*, and the like People that were Headed by those who were sent by the Parliament to Muster and Discipline them; so that what the Parliament did, they looked upon as done in their own Defence. And had they staid till he had actually raised an Army to have marched up to *London*, the King might then have surprized them, quite unprovided for their own Defence; so that they could have made no considerable Resistance, for the Safety and Preservation of the Parliament, and consequently of the Liberties of the Nation. And if this had been, as they themselves set forth, it puts a much better Colour upon their Cause, and Subsequent Actions; since that makes it only a Defensive War against the King, which is justifiable enough upon Your own Principles.

Rush.
p 655.
Vid. *May's*
Hist. &c.

F. I will not deny, but that when the Queen, and Her Daughter, the Princess, went over into *Holland*, with the Jewels and Pictures you mention, it might be done with an intent to Pawn them for Money, in case a War could not be avoided; but that there was none then designed by the King that Summer, appears plain enough, by the Queen's not coming

coming over with these Arms till the Year following ; since otherwise She went early enough in the Spring to have bought those Arms, and sent them over to the King, or returned Her self with them the same Year. And as for Your other Objection, That the King designed a War, by His going into the *North*, and there raising a Guard, and endeavouring to seize the Town of *Hull*, it was the Violent Proceedings of the Parliament, that forced Him to that Resolution ; for besides that, He did not think Himself safe any where near *London*, where the *Militia* of that City was commanded by its own Officers, regulated by the Parliament ; when they might, under the pretence of removing Evil Counsellors, not only have seized them, but his Own Person likewise. And when upon His first departing from *London* to *Theobalds*, they so earnestly pressed Him to settle the *Militia* of the Kingdom by Act of Parliament, in the Hands of Commissioners of their own appointing ; what was it, but to tell Him in plain Terms, that the Forces thereof were no longer to be trusted in His Power ? For after He had so openly attempted to seize their Members, they no longer look'd upon Him as their Friend, and scarcely as their King, any more than in Title ; because when once they were possessed of the Sword, that main Prerogative of the Crown, they knew that He and all those that adher'd to Him, were absolutely in their Power ; and therefore He had very good reason to tell the Commissioners, whom the Parliament had sent to Him to *Theobalds* for his Assent to the Bill for the *Militia*, *That He would never trust that Power wholly out of his own hands, no, not for an hour.*

M. I shall not insist farther as to this Point : But pray give me the rest of this Year's Transactions.

F. With all my Heart ; and I will do it as briefly as I can ; but must first farther inform You, That a little before this, the King Himself offered a very good Expedient to compose this Dispute, by a Bill for the Settlement of the *Militia* for a certain time ; wherein He was content to Name but one half of the Lords Lieutenants, and other Officers, and so leave the rest to the Nomination of the Parliament. But neither would this satisfy them, unless they had the sole Power of it settled in Commissioners of their own Nomination, and that without any time limited ; and to that

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Whitl.
Mem. p. 55.

end they refused the Bill the King had offered, and drew up another (that I last mention'd) by which they put that great Trust wholly in certain Lords and Gentlemen, whom they look upon to be entirely in their Interests, quite excluding the King from having any more to do with it, than if He had been a Duke of *Venice*; and the unreasonable urging of this Bill proved that Rock of Offence, on which the Common Peace of the Nation was not long after splir.

M. But pray tell me, What did the King after he came to *York*?

Whitl. ib.
Rush.
p. 567.

F. I shall observe Your Directions. You may remember, That after He had been denied entrance into *Hull* (which has been taken notice of by Your self) He proclaim'd *Hotbam*, a Traytor, and so return'd to *York*, and from thence sent to the Parliament to have exemplary Justice against Him; and that the Town, together with the Magazine, should be deliver'd to Him: but they were so far from complying with His reasonable demand, (tho' He sent more than once about it) that after some Messages which passed between the King and them, they Issued out a Declaration; wherein they justify'd Sir *John Hotbam's* late Action, and set forth the King's design upon *Hull*, as an Infringement of the Liberties of the Subject, and a Breach of the Law of the Land (tho' how, or wherein, had been a hard matter to shew); and then they sent certain of their own Members down thither for the better securing of the Town. *Hotbam* being thus backed by the Parliament, presently sent out Warrants in his own Name to summon the Trained-Bands of the Adjacent Country to march in with their Arms for the defence of that place; which being obey'd by several of them, he then pretended he had no present occasion for them; and so having disarm'd them, turn'd them Home again.

Dugd.
p. 94.
Rush.
p. 526.

Id.
p. 535.

A little before this, the Two Houses not only passed their Ordinance for the *Militia*, against His Majesty's Consent, and without letting Him have any share in the disposal of it; but also to reinforce it, Issued out a strict Order, requiring all Persons so Authoriz'd by themselves, immediately to put that Order in Execution; which was done, notwithstanding the King's Declaration to the contrary; wherein

wherein He set forth, That it was Illegal, and commanded them not to obey it, since the Two Houses had no lawful Authority to make any such Ordinance without His consent. But this Declaration found no Obedience; for the Parliament-Commissioners had already muster'd it, and exercised the Trained-Bands in several Towns and Counties, where they were able to do it; of the Success of which, You shall hear farther by and by.

Whereupon the King having hitherto had no Guards, but Dugd. His Gentlemen Pensioners, and His Ordinary Yeomen, and p. 92. knowing the Parliament had some time before rais'd a Guard for their own Security: He therefore Issued out His Letters of Summons to the Gentry of *Yorkshire*, to attend Him at *York*; who coming to Him accordingly, He then acquainted them with the late Illegal Proceedings of the Parliament: And that He looked upon His Person to be no longer in Safety without a greater Guard, and therefore desired their Assistance for that Purpose; and this being cheerfully complied with by most there present, they return'd Home to raise the Forces He told them were necessary for His present Service; and not many days after, He farther signify'd to them by His Letters, That He should take it kindly if they would attend Him, so arm'd and provided as they should think fit; for He apprehended Himself in some Danger.

Rush. ib. p.
622, 624.

This was readily obey'd, and many of them came in to Him, pursuant to His Summons. At this the Faction of the Two Houses were so highly alarm'd, that thereupon they immediately Voted, that what the King had done at *York*, in raising of a Guard, was a Preparation for a War against them, and a Breach of the Trust reposed in Him by His People, contrary to His Oath, and tending to the Dissolution of the Government; and that all such as served Him therein, were Traytors to the Laws of the Kingdom.

Whitl. p.
57. Col. 1.
Dugd.
p. 93.

Now by what Law they could judge it so, I am yet to seek; it being expressly declar'd by the Statute of the 7th of *Edward the First*; That it belongs to the King alone to * prohibit force of Arms, and all other Force, when it shall please Him, and to punish Offenders which shall do contrary to Law; and herein every Subject is to be Aiding and Assisting.

* The
French
Word is
Defendre.

But to Return to the Matter in Hand. Immediately after this, the Faction at *Westminster* publish'd another Declaration in the Name of Both Houses of Parliament, 'for-
' bidding all Men to attend His Majesty at His Pleasure, ex-
' cept such as were bound thereto by Special Service : And
' that if the Trained Bands, or any other His Majesty's Sub-
' jects, should upon any such Command be drawn out in a
' Warlike manner, they should be esteem'd as Disturbers of
' the Publick Peace : Wherefore the Sheriff of each County
was thereby order'd forthwith to raise the Power thereof,
to Suppress the same, and to keep His Majesty's Peace ac-
cording to Law.

Dugd.
p. 93.

And having already Voted, That the Magazines of each
respective County in *England*, and *Wales*, should be present-
ly put into the Power of such Lords-Lieutenants, &c. as
the Parliament most confided in : They also publish'd an-
other Declaration, ' Highly reflecting on His Majesty's late
' Gracious Messages, Answers, and Declarations, Taxing
' Him with Breach of His Word, and Promises ; as also
' with continued Oppressions and Violations of the Laws,
' and with an intent to bring up His Northern Army to
' awe the Parliament.

Id. ib.

' And having so done, they Voted farther the next day, That
' the King (seduced by Wicked Counsel) designed to
' make War against His Parliament ; which (*as they pre-
' tended*) in all their Consultations and Actions, proposed no
' other End unto themselves, but the Care of his Kingdom,
' and the Performance of all Duty and Loyalty to His
' Person.

Nor was this All ; but at the same time they made as
great Preparations for a War, as if it had been against a
Foreign Enemy.

Dugd.
History,
p. 93.

Having managed their Point thus far, they go on, and
set forth another larger Remonstrance, in Justification of
all their Proceedings : In which they had this bold Expressi-
on, *That now they had brought their Work to such an height, and
degree of Success, that nothing seemed to be left in their way,
able to binder the full Accomplishment of their Desires ; unless
God in His Justice should send a grievous Curse upon them.*

Then

Then within Three days after, they sent a Petition to the King, in the Name of both Houses, which was delivered to Him at *York*; 'Wherein they holdly blamed Him, for the Breach of His many fair Promises, and Pretences; and desired Him to Disband His Guard, it being a Cause of great Jealousy and Danger to the whole Kingdom: Otherwise they told Him, That they should employ their Care and utmost Power to secure themselves, and future Parliaments, and to preserve the Peace and Quiet of the Realm. And shortly after, they publish'd a Third Remonstrance, still justifying their former Actions, and farther blaming Him for every thing He had done, and challenging the Obligations of His Oath (upon that *Æquivocal* Construction of *quas Vulgus elegerit*) to pass all Bills which they should tender unto Him. About this time also, they remov'd the Magazine from *Hull* to the Tower of *London*: And farther Voted That whosoever should lend or bring any Money into this Kingdom, upon the King's Jewels, &c. should be adjudged an Enemy to the State.

M. But had they not a plausible Defence to make for this, if they were satisfied, that the King had raised this Guard, not only upon Pretence to secure His Person, but indeed to seize *Hull* with the Magazine of Arms there, in order to make War against the Parliament? And were not the Crown Jewels now ready to be Pawn'd by the Queen in *Holland*, to buy Arms and Ammunition for the same Purpose?

F. I can easily take off this Objection: For sure it was high time for His Majesty to provide for His own Safety, when the Parliament had sometime before began to borrow all the Money and Plate they could upon the *Publick Faith*, as they then call'd it. And in this the Citizens of *London* shew'd themselves so zealous, that they not only brought in great Quantities of Plate, but their Wives deliver'd up their Candle Cups, Thimbles, and Bookings, to maintain the good old Cause; which their Preachers so highly encouraged, that they denounced all those who refused to contribute to it, accursed from God; cunningly applying that Text to their present Purpose; *Cause ye Merax*, &c. I suppose you know well enough what follows, without my repeating it.

And farther, as to His Majesty's Guard, Was it not as law-

Id. p. 94.

Judg. C. 5.

v 23

ful and necessary for Him to have one, as the Parliament who had rais'd one (as they pretended) for their own Security several Months before. But indeed the prevailing Faction in the Two Houses represented every thing they did themselves, as very just and lawful; But, as if they had been the Sole and Supreme Power of the Nation, they declared the same thing, when done by the King, as Illegal, and Arbitrary; for He (poor Gentleman) was wholly to submit to their Dictates, and lie at their Mercy; as appears about this time, by their seizing of *Portsmouth*, and all other strong places near *London*, into their Hands, together with the Royal Navy; and then passing that strange Vote above-mentioned, upon His Majesty's raising but one Regiment of Foot, and a few Horse for His own Security.

M. But, pray, Sir, Tell me, what effect these violent Proceedings then wrought upon the Minds of the chief of the Nobility and Gentry of the Kingdom?

F. I thank You for minding me of it; and I must now take notice, That not long after His Majesty's coming to *York*, and continuing there; many of the Chief Nobility, as likewise of the Members of the House of Commons, with other Gentlemen of Note and Estates, being satisfied in their Consciences of the Justice of his Cause, from His Majesty's Declarations, and the whole Progress indeed of Affairs, resorted to Him at that City; and the Lord-Keeper *Littleton* himself, tho' at first he seem'd inclinable to the Parliament in the business of the *Militia*, yet now, having delivered the Great Seal to one whom the King had sent for it, he presently after followed it himself, and then had it recommitted to Him: And his coming in at that time very much conduced to His Majesty's Service, as being a Man of great Courage, Parts, and Learning. Not long after his Arrival, upon His Majesty's Declaration that He would not require any Obedience from such as attended Him, but what was warranted by the Known Laws of the Land; and that He would defend the *Protestant* Religion established by Law, the Liberties of the Subject, and Privileges of Parliament, against which He would not engage them in any War, unless it were for his own necessary Defence. Thereupon the Lord-Keeper, together with the Duke of *Richmond*, the Marquis of *Hartford*, and divers other Earls and Lords,

Lords, to the Number of above Forty subscrib'd in Writing a Promise, whereby they engag'd themselves not to obey any Orders or Commands whatsoever, not warrantable by the Known Laws of the Land; and farther, engaged to defend His Majesty's Person, Crown, and Dignity, together with His Just and Legal Prerogatives, against all Persons and Power whatsoever: As also to defend the True *Protestant* Religion established by the Law of the Land, the Legal Liberties of the Subjects of *England*, and just Privileges of His Majesty, and both His Houses of Parliament. And *Lastly*, They engaged themselves, not to obey any Rule, Order, or Ordinance whatsoever, concerning the *Militia*, that had not the Royal Assent. This was Dated the 13th of *June*, 1642.

M. These were indeed very fair Protestations from Persons of so great Worth and Honour. But pray what effect had these Proceedings upon the Two Houses at *Westminster*?

F. Why, just none at all. For I cannot but also observe, That a few days before this, the Two Houses being flush'd with their Success, and confident of their own Power, sent down to the King certain Proposals for a Peace and Agreement, which were called the *Nineteen Propositions*; by which they not only demanded the whole Power of the *Militia*, but also in effect the whole Regal Authority into their hands. Unto which He soon after returned a full and clear Answer by the Marquis of *Hertford*, and Earl of *Southampton*. Dugd. p. 95.

To second these Propositions, within four days after, they set forth another bold Declaration against His Proclamation of the 27th of *May*, whereby He had forbid all Obedience to the Parliament's Ordinances for the *Militia*: Now (in opposition thereto) they declared it to be void in Law, requiring all Officers to muster, raise, march, and exercise, according to their late *Ordinance*; assuring them, for so doing, of Protection from both Houses of Parliament. Rush. p. 551.

And within few days after this, they sent out an Order, in the name likewise of both Houses, with fresh Proposals for the bringing in of Money and Plate; as also for providing Horses, Horsemen, and Arms, in pursuance of their late solemn Vow and Protestation, for suppressing the trait-
'terous Dugd. p. 96, 97.
Whitl. p. 57.

terous Attempts (as they call'd them) of those wicked and malignant Counsellors, who sought to engage the King in a War against his Parliament; and likewise with Instructions for the Deputy-Lieutenants to proceed therein, themselves first making Subscriptions accordingly that very day: And about the same time they sent down divers of the most active Members, to execute their Ordinance for the *Militia*, in the Counties of *Leicester*, *Lincoln*, *Essex*, *Kent*, &c. who infused into the People strange Apprehensions of very great Dangers, that so they might be the better prepared to take up Arms in their Defence (as they pretended.) After this they borrowed Money, Plate, and other things, of the Inhabitants of the City of *London*, on the Publick Faith, for the buying of Arms, and raising of Men, under pretence of a Guard for both Houses; notwithstanding the King had sent a Letter to the Lord Mayor, Aldermen, and Sheriffs of *London*, forbidding to give or lend any Moneys, or provide any Horses or Arms; since it was only out of malice given out, that He design'd to make War upon the Parliament.

This I the more particularly take notice of, for you to observe, how the Two Houses were providing all things ready for a War themselves, whilst the King had as yet neither Men, Money, nor Ammunition, and was hitherto attended with no more than his ordinary Retinue: So that all the effect His Majesty's Letter produced, was only an Order, in the Name of both Houses, That the Deputy-Lieutenants throughout the Kingdom should tender Propositions to the severall Counties, for raising of Horse for the Service of the King and Parliament: And soon after that, a Declaration of both Houses was issued out, whereby they justified their raising of Forces, alledging them to be for Maintenance of the *Protestant* Religion, the King's Authority and Person, the free Course of Justice, the Laws of the Land, Privilege of Parliament, &c. Forbidding any Officers whatsoever, to spread that Paper, (for so they stiled His Majesty's Letter), justifying their former Votes, that the King intended to levy War against his Parliament; intimating that neither His Majesty's Commands nor Threats could withdraw or deter such as were well affected to the Publick, from contributing their Money, Horses, and Plate.

M. But

M. But pray, Sir, what effect had these Declarations?

F. I'll tell you as fast as I can: In short, they fully answer'd their Expectations; for (having thus deluded the People) large Proportions were daily brought in, and the County of *Essex* alone contributed Twenty seven thousand Pounds and upwards, and Eight hundred Horse; *Hertfordshire*, Eight thousand Pounds, and Three hundred Horse, &c. as appears by the Calculation thereof, made upon the 20th of *August* ensuing. The King therefore, taking these their violent Practices into Consideration, and that they had set up Lieutenants and Deputy Lieutenants in all Counties, declaring his Commissions of Lieutenancy illegal; upon mature deliberation and advice (about this time) He issued out his Commissions of *Array* into all parts of the Realm; which course had been antiently used by his Royal Progenitors, for prevention of Invasions, or suppressing of any Insurrections, and approved by divers antient Statutes. And thereupon He set forth a Proclamation, informing all His Loving Subjects, of the Lawfulness and Use of them, commanding their Obedience thereunto; which Commissioners the Lord *Strange*, Son to the Earl of *Derby*, in *Lancashire*, and *Ceshire*; the Earl of *Huntingdon*, and Mr. *Henry Hastings*, his Son, (afterwards Lord *Loughborough* in *Leicestershire*,) with others in those Counties, to whom they were directed, did first put in Execution, but not without great opposition from the Commissioners of the *Militia*, appointed by the late Ordinance of both Houses; as you will hear farther by and by.

Dugl.
P. 97.

Rush.
p. 680.

But hereupon the Members at *Westminster* published a large Declaration, in the Name of both Houses, representing those Commissions of *Array* to be contrary to the Laws of the Land, destructive to the Liberty and Property of the Subject; yea, (if they might be believ'd) so full of Danger and Inconvenience, that it would bring an heavier Yoke of Bondage upon them, than any that had been taken away by this Parliament. Their Factious Emissaries were in the mean while employed in sundry Parts of the Realm, to persuade the People, that those Commissions were to reduce the Estates of all the Yeomanry of *England* to Ten pounds *per annum*, and to enslave them beyond all Expression. And lest those, who were thus seduced by these
their

Rush.
p. 661.
ad p. 667.

their subtil Illusions, should receive any satisfaction from His Majesty's Gracious Declarations, whereby the uprightness of His Actions, and Candor of His Intentions, might any ways appear, they sent out Orders, strictly prohibiting the publishing of them; promising Protection from the Parliament, to those who should refuse so to do.

Rush.
P. 691.
757.

But to make short of the rest of this Narrative of Matter of Fact; after Both Houses had set out Two other long and specious Declarations, wherein they pretended their whole endeavours to be for His Majesty's Honour and Safety; the Regaining the Antient Laws, Rights, and Liberties of the Kingdom which had been so much invaded; the settling the *Protestant* Religion in Peace and Purity, &c and at the same time Taxing the King with an endeavour of a Change both in Religion and Government; as also with breach of solemn Protestations; and that He had already begun a War against them, being seduced by Popish Councils, and a Malignant Party, who had designed nothing but Slavery and Confusion; and that this gave them a just occasion to raise Forces, for the Defence of Religion, and the Laws of the Land. To which, tho' His Majesty publish'd full and rational Answers; yet the Party at *Westminster*, and the adjacent Counties were so prepossessed with Prejudice, that they had little or no Effect.

M. But what was the Issue of these Declarations?

F. Why from Skirmishes in Paper, they proceeded by Degrees to real Hostilities; for so soon as the Parliament had prevail'd upon a great many Persons of the City of *London*, and Eighty Miles about it, to bring in their Money, Plate, and Horses, upon the Publick Faith (as they called it) they began therewith to buy Ammunition, and to raise Men, tho' they were not form'd into an Army till some time after.

Id. p. 630.
634, 685.

In the mean while the War was in a manner begun by divers petty Conflicts in several Counties between the Commissioners, whom the Parliament had order'd to Muster and Command the *Militia*; and those other Commissioners who acted for the same purpose by Virtue of the King's Commissions of *Array*, grounded on the Statue of 5th *Henry the Fourth*; which being by both Houses Voted illegal, and against

against the Liberty of the Subject ; thereupon happen'd many petty Engagements in several Counties between the Train'd-Bands in those places, which were divided into Two different Parties, of the King, and the Parliament, some of the Nobility and Gentry siding with the one, and some with the other, according to their different Interests and Principles ; as particularly in *Lancashire* ; where the Lord *Strange*, Son to the Earl of *Derby*, having raised great part of the *Militia* of *Lancashire*, with an intent to seize *Manchester* for the King's Service, was repulsed by Sir *Tho. Stanley*, and others, with the loss of one Man on the Parliament's side, which is supposed to be the first Blood that was shed in this unhappy Quarrel ; and not long after the like Contests happen'd in *Oxfordshire*, *Dorsetshire*, and *Warwickshire* ; and that with various Success, and the loss of some Men on either part.

May's
Hist.

p. 109.

M. But you have not yet told me, What the King hath been doing at *Hull* all this while, which seems to have been the main Business of this Summer.

F. I shall tell you as fast as I can : But I could not do it till I had given you an Account of the Success of this great Affair of the *Militia*. Sir *John Hotham* having now provided his Garrison of *Hull*, with Men and Ammunition, the King about the middle of *July*, resolved to besiege that place ; and having raised a small Army of about Three thousand Foot, and a Thousand Horse out of the *Militia* of *Yorkshire*, march'd against the Town, tho' but with ill Success ; for so soon as the Governor heard of their Approach, he immediately pull'd up the Sluces, and laid all the Low-grounds about the Town under Water ; so that all that could be afterwards done, was to block it up, and reduce it by Famine.

May. p 92,
93.

But the Garrison in *Hull* would not let it go so far ; but boldly sallying out to the Number of about Five hundred Men, under the Command of Sir *John Meldrum*, they beat off the King's Forces, which consisting chiefly of the Country Trained-Bands, presently ran away ; and the Horse being thus deserted by the Foot, quickly follow'd them towards *Beverly* ; but upon the retiring of the Parliament-Party, the Siege was again renew'd ; but was sometime after quite raised. When the Governor had received fresh Supplies

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from

from *London*, Sir *John Meldrum* made another Sally ; and killing about Twenty Men, and taking about as many more Prisoners, and setting Fire to the King's Magazine of Gunpowder, and other Ammunition, it so discouraged Him, that by the Advice of a Council of War, He resolved to raise the Siege, and retire again to *York* : And so the Summer passed, till the King by a Reinforcement of His Army, set up His Standard at *Nottingham*.

M. But I forgot to ask you, What became of the Fleet all this time : And how it came to pass, That the King made no use of it, to strengthen and block up the Town of *Hull* by Sea ?

F. I thank You for putting me in Mind of this ; and I will give You an easy Answer to it. In short, the Parliament had now made themselves Masters of almost the whole Royal Navy ; and putting out Sir *John Pennington* Admiral for the King, gave the Earl of *Warwick* the Chief Command of it ; who undertook it notwithstanding the King's Commands to the contrary ; and immediately sailing out with a strong Squadron of Men of War, easily reduced all such Ships, whose Captains refused to obey his Orders ; and in the *Downs* they seized upon a Man of War then bound for *Newcastle* for His Majesty's Service, together with a small Vessel laden with Gunpowder ; which, as it proved a great Addition of strength to the Parliament, so it was a great weakening and disappointment to the King's Interest.

M. This Action of my Lord of *Warwick* was indeed very bold, and violent, and suitable to the Character of that Nobleman, who afterwards proved one of the greatest Enemies the King had. But pray, Sir, proceed.

F. Matters being arrived to this height between the King and the Two Houses, they did not long continue in this uncertain State ; but after a tedious Debate in the House of Commons, notwithstanding the opposition of divers moderate Men of their own Party, it was at last Voted on the 12th of *July*, and afterwards agreed to by the Lords, ' That an Army should be raised forthwith (as they pre-
' tended) for the Safety of the King's Person, the Defence
' of both Houses of Parliament, and of those who had
' obeyed their Orders and Commands ; and for preserving
' of

Whitel.
p. 58.
Ruth.
p. 753.
754, 755.

of the True Religion, the Laws, Liberty, and Peace of the Kingdom: And then they also Voted, That the Earl of *Essex* should be General of it, with whom they declared they would Live and Die. All that in their Votes shew'd of any Moderation, was, That they then also Voted a Petition to be sent to His Majesty, to move Him to a good accord with His Parliament, and to prevent a Civil War; but was only to this Effect: That He should dismiss His Forces from about *Hull*, *New-castle*, and other places, and recall His Commissions of *Array*, and return nearer to His Parliament, and hearken to their Advice: And that they would then cease those Preparations they had made for their Defence, and would put the Town of *Hull* in the same condition as it was before Sir *John Hotbam* brought his Forces into it. But as for their Ordinance for the *Militia*, they insisted to have it Setled by a Bill, in such a way as should be honourable and safe for His Majesty, most agreeable to the Parliament, and effectual for the good of the Kingdom; which signified no more in General Terms, than to tell the King, That the *Militia* should be settled as they pleased themselves. This was not to be done neither, unless the King would leave all Delinquents (that is, all those who had obey'd His Orders) wholly to their Justice, or rather Discretion.

Rush.
p. 601.

But His Majesty having dispatched the day before, being the 11th of *July*, a Message to them upon His sending Forces to *Hull*, requiring that place to be deliver'd to Him, together with his Proclamation, wherein He set forth how ill Sir *John Hotbam* had dealt with Him by divers Hostilities committed in, and from the said Town; and of the Ships under the Command of the Earl of *Warwick*, keeping that Port and Passage by Sea to it, in order to seize such Ships as were employed in His Service: And therefore He summons all His good Subjects in General, to come in to His Assistance, for the reducing it to His Obedience: And concludes with a Protestation, That He would continue to defend the True Protestant Religion, as it is by Law Establish'd in the Church of *England*; the Laws of the Land; the Rights and just Liberties of His Subjects, equally to and with His own just Prerogative; and other things needless here to be repeated.

Id. p. 603. But before the Receipt of this Message, the Two Houses having already prepared the above-mentioned Petition, they resolved to Return no other Answer to it, than the Petition it self; to which, being delivered by the Earl of *Holland*, Sir *John Holland*, and Sir *Philip Stapleton*: The King immediately after Return'd a very reasonable and solid Answer; wherein He bids them remember, That (which all the World knows) His Majesty was driven from His Palace of *Whitehall*, for the safety of His Life; and that not till

Id. p. 605. both Houses of Parliament upon their own Authority raised a Guard to themselves (having gotten the Command of all the Trained-Bands of *London* to that purpose) without the least Colour or Shadow of Danger; That they usurped a Power by their pretended Ordinance (against all Principles of Law) over the whole *Militia* of the Kingdom, without, and against His Majesty's Consent; That they took possession of his Town, Fort, and Magazine of *Hull*, and committed the same to Sir *John Hotbarn*, who had shut the Gates against His Majesty, and by force of Arms denied entrance thither to his own Person; That they justified this Act, and took Sir *John Hotbarn* into their Protection for whatsoever he had done or should do against Him; and all this while His Majesty had no other Attendants than his own Menial Servants.

That as for His Forces He should not dismiss them till *Hull* was again reduc'd to His Obedience; and as for the Commissions of *Array*, He insisted that they were Legal, and which He promises to prove so, by a Declaration to be shortly publish'd. As to His coming nearer to His Parliament, He said, He hath expressed Himself so fully as to His several Messages, Answers, and Declarations, and so particularly avowed a real fear of His Safety, upon such Instances as cannot be Answered, That He hath reason to take Himself somewhat neglected. He (says he) is also sorry, that since upon such manifest Reasons it is not safe for His Majesty to come to them, both His Houses of Parliament will not come nearer to His Majesty, or to such a place where the Freedom and Dignity of Parliament might be preserved. And as for the Tumults that had driven him from *London*, He should be glad to hear of some Examples of the punishing the Authors of it, which He knows not how

how to expect, since the House of Commons had already declared, that they knew not of any such Tumults, tho' the Peers had desired, both for the Dignity and Freedom of Parliament, that the House of Commons would join with them in a Declaration against them, which they refused; and notwithstanding the Complaints that He Himself had made of things of that Nature, yet they had neglected to enquire out the Authors of divers Seditious Actions, Speeches, and Writings. Then he proceeds, That as for the leaving Delinquents to the due Course of Justice, His Majesty is well assured He hath given no shelter to any such. But if by Delinquents, such are understood, who refuse to submit to the pretended Ordinance of the *Militia*, and that of the Navy, or to any other which His Majesty hath not consented to; or those who had Published His Proclamations, or had Read His Messages and Declarations (as divers Ministers about *London*, and elsewhere, had done;) or such as had lent His Majesty Money in the *Universities*, or any other places, His Majesty declares to all the World, That He will protect all such with His utmost Power and Strength; it being no less his Duty to protect those who are innocent, than to bring the guilty to Condign Punishment; of both which the Law is to be Judge. And then concludes, with shewing, that much greater Delinquents act on their side; yet agrees that all Delinquents shall be proceeded against according to the Known and Unquestionable Rules of the Law.

Having said thus much of the Particulars of their Petition; He then proceeds to complain, That since the sending thereof, they had beaten their Drums for Soldiers against Him; armed their own General with a Power destructive to the Law and Liberty of the Subject, and chosen a General of their Horse. That Sir *John Hotham*, besides his burning and drowning the Country, had seized His Wine, and other Provisions for His House; and therefore demands, That the Town of *Hull*, with his Magazines, be forthwith delivered into the Hands of such as He shall appoint: That his Navy be forthwith deliver'd into such Hands as He hath directed for the Government thereof: The detaining of it, after His Majesty's Directions published and received to the contrary, and employing His Ships against Him in such man-

manner as they are now used, being notorious High Treason in the Commanders of those Ships : And then concludes with a Demand, That all Arms, Levies, and Provisions for a War, made by Order of both Houses (by whose Example His Majesty hath been forced to make some Preparations) be immediately laid down, and the pretended *Ordinance* for the *Militia*, and all power of imposing Laws upon the Subject, without His Majesty's Consent, be disavowed ; without which, the same pretence will remain, to produce the same Mischiefs.

These things being done, and the Parliament adjourned to a safe and secure place, His Majesty promises in the Presence of God, and binds Himself in all Confidence and Assurance on the Affections of His People, that then He will instantly and most chearfully lay down all the Forces He hath raised, and discharge all His future and intended Levies, that there may be a general Face of Peace over the whole Kingdom ; and then He will repair to them ; and desires all Differences may be freely debated in a Parliamentary way, whereby the Law may recover its due Reverence, the Subject his just Liberty, and Parliaments themselves their full Vigor and Estimation ; and so the whole Kingdom a blessed Peace, Quiet, and Prosperity.

And if these Propositions should be rejected, his Majesty doubts not of the Protection and Assistance of Almighty God, and the ready Concurrence of His good Subjects, who can have no hope left them of enjoying their Own long, if their King must be oppressed and spoiled, and must be remediless : And tho his Towns, his Ships, his Arms, and his Money be gotten and taken from Him, He hath a good Cause left, and the Hearts of his faithful People, which, with God's Blessing, He doubts not will recover all the rest ; And then His Majesty concludes, That He expects a full and positive Answer by *Wednesday* the Seven and twentieth of this Instant *July* : Till when, He would not make any Attempt of Force upon *Hull*, hoping in the Affection, Duty, and Loyalty of the Petitioners ; and that in the mean time no Supply of Men be put into *Hull*, or any of His Majesty's Goods taken from thence.

M. These Offers appear very fair and reasonable ; but what Return did the Two Houses make to them ?

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F. I'll tell you presently : To this Answer the Lords and Commons a few days after sent the King a Replication by the Earl of *Holland*; the effect of which was, to let Him know, that they could not agree to His Majesty's demands for the delivery of *Hull*, and the Magazine, together with the Navy, or the recalling the Ordinance of the *Militia*; the laying down of all Arms raised by Authority of the Two Houses of Parliament, and adjourning themselves to some other Place: Because the reason wherefore they took the Town of *Hull*, with the Magazine, and Navy into their Custody; and why they passed the Ordinance of the *Militia*, and made preparations of Arms; was only for the Security of Religion, the Safety of His Majesty's Person, Kingdom, and Parliament; all which they did see in evident and eminent Danger: From which, when they shall be secured, and the Forces of the Kingdom shall not be used for the Destruction thereof, they shall then be ready to withdraw the Garison of *Hull*, to deliver the Magazine and Navy, and settle the *Militia* by Bill, in such a way as shall be honourable and safe for His Majesty, most agreeable to the Duty of Parliament, and effectual for the good of the Kingdom, as they have professed in their late Petition. And for adjourning the Parliament, they apprehend no Reason for His Majesty to require it, nor Security for themselves to consent to it: And then conclude, That His Majesty need not fear returning to *London*, considering the Loyalty and Fidelity of that City to His Majesty. And as for laying down of Arms, they excuse it, till the Causes that had moved them to take them up, shall be removed; and then they say when this is done, they shall be willing to forbear making any farther Preparations, &c. But of all this they make themselves the sole Judges.

But I cannot here omit, That tho both the King and Parliament commanded these their Declarations, Messages, and Petitions to be printed and published, and also to be read in Churches; yet the latter either mistrusting the Justness of their Cause, or fearing lest the People should receive any due Information concerning the Justness of the King's Cause, and the Sincerity of his Intentions, streightly forbid any Ministers or other Officers from reading or publishing any Declarations, Messages, or Answers sent them by the King;

King ; and those that refused to obey, were committed to Prison ; as in particular they dealt with Sir *Richard Gurney*, Lord-Mayor of *London*, who for publishing the King's Commission of *Array*, was not only deposed from his Office, but also committed to the *Tower*, where he lay a long time.

I have given you the more particular Account of this Petition, and the King's Answer, with their Replication thereunto, that you may the better observe how things stood between the King and the Two Houses, and who were most in the fault, that they could by no means come to a better understanding. I shall therefore now proceed further to shew you how they daily grew into greater Acts of Hostility, till it came to that height as engaged the whole Nation in a Civil War, which ended in the Ruin of the Royal Party, the Murther of the King, and the enslaving of the whole Nation.

M. But, pray Sir, before you go on farther, tell me whether, according to your and their Principles, the Parliament had not a fair Colour for what they did : For who (said they) can, or ought to judge, when the Kingdom is in danger, or that the King goes about to destroy the Liberties of the People, and to make War upon the Parliament, but themselves, the Representatives of the Nation, and *sole Judges and Interpreters of what is Law* ? Now when they had thus solemnly declared their own sincere Intentions, That they did not design to begin any War against the King, but only to take Him from His Evil Counsellors ; and therefore still earnestly beseeched Him to return again to his Parliament at *London* ; and He refused to do it, but staid in the *North*, providing Arms, and raising men for his Guard ; why should it be supposed that this was for any other end, than to make War upon the Parliament ?

F. I grant that this was the effect, and indeed chief, if not only Reason, in all their Declarations and Remonstrances, why the Nation should put full Trust and Confidence in whatever they said ; yet the King did not fail in his Messages to them, as also in his Printed Declarations, in Answer to whatever could be urged upon this Head, to see forth, That the Parliament were not the sole Judges and Interpreters of the Law, without Himself ; for upon that
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Ground (unless the Two Houses should be supposed infallible, and not capable of judging or acting any thing amiss) they might engross all the power of the Kingdom to themselves, and so leave Him the empty Title and bare Name of a King, as they had in effect done by their *Ordinance* concerning the *Militia*; over which they asserted, That He had no more Authority but as it was declared, and issued by and from themselves. Now granting it to be according to their own Allegation, that the King was one of the Three Estates of the Kingdom (whereas He is indeed the Head of the whole Body Politick) yet even upon this Supposition, they could not, nor ought to judge and declare what was Law without Him: For supposing Him to be but equal with them, it is a known Maxim among Equals, That *Par in parem nullam habet potestatem*; and that in distinct Persons and Powers, each of them must be endued with an Independent Right to act and judge for themselves. Therefore since they had made the King's Stay in or near *London* unsafe for Him, by the Tumults raised and fomented by the Faction in both Houses, could any body but Himself judge when His Person was in danger, and what were the best means for his own Security? If therefore they thought it convenient several Months before to have a Guard assigned them for their Defence against a Malignant Party, might not the King have a like Right to a Guard for his Defence, against those that had now got all His Fleet and Naval Stores, with his Magazines of Arms in the *Tower* and at *Hull*, into their own hands, whether he would or not? and had by thus violently invading his Prerogative without his Consent, not only put themselves in a Posture of War, but indeed actually begun it, by the Commissions they had issued out for mustering the *Militia* of the Kingdom, before the King's Commissions of *Array* were actually put in execution for the same purpose; but especially after they had avowed and justified *Ho:ham's* shutting Him out of *Hull*, and thereby treated the King as if He had been a publick Enemy to the Nation?

To conclude: If they had their Fears and Jealousies of His Proceedings, why might they not be mutual, and He likewise have the same of theirs? For when once men cease treating each other like Equals, by Reason and Persuasion, and come to Force, they are then discharged of all Civil

Obligations ; and in that state it is lawful *vim vi repellere*, to repel Force by Force. Therefore since neither the King nor Parliament could agree upon these Points, and that neither of them were infallible, all they could do was to appeal to the People, which side they would take and adhere to ; tho' as their Condition was very unhappy, whilst they knew not which of these contending Powers to follow or obey ; yet certainly those that took part with the King had the Law on their side, since by the Statute of the 11th of Henry the 7th, none can be called in question for assisting the King in His Wars against His Enemies, whether Foreign or Domestick.

M. But, pray Sir, tell me then, why you have not hitherto called the Two Houses, and all that assisted them, downright Rebels and Traytors, as certainly they were (according to our old Church of England Principles) notwithstanding they were at first chosen for the Representatives of the Nation ? And if the Cavaliers had (as you say) the Law on their side, then the other Party acting against Law, must deserve that Title by your own shewing.

F. I do not at present concern my self with what they were indeed, but shall decline giving them or their Adherents those hard Names of Rebels and Traytors, for several Reasons: As first, Because I am now to declare my self directly of no Party, but to shew wherein the King and Parliament were both to blame, as certainly they were, as well in the beginning, as carrying on of that unhappy Civil War. And in the next place, I forbear calling them plain Rebels, because the King, having made the Two Houses by his own Act not subject to any *Dissolution* or *Prorogation*, otherwise than by their own Consent, had so far made them Independent upon Himself, and had given them thereby a Power of looking into, and censuring his Actions, whether He would or not ; especially since they put such a specious Gloss upon all they did, that it was hard for many well-meaning and prudent Men of the Long Robe among them, to believe their Party in the wrong, but that they acted in defence of the *Protestant* Religion, and the Liberties and Privileges of the Nation ; with an acknowledgment of a Submission to the King's Authority, as far as they thought it according to Law. I shall not call them direct Traytors for

for what they at first did, till the *Independent Party* in the House of Commons having got the ascendant of the *Presbyterians*, and also beaten the King in the Field, and had his Person delivered to them by the *Scots*, not only kept Him in Prison, but voted no more Addresses should be made to Him, and took the whole Power, both Civil and Military, into their own hands; and from that Period of Time I shall not stick to call them Traytors: Since no man can justify the imprisoning of the King, without committing Treason by the Act of the 25th of *Edward the Third*; wherein I find no exception, whether it be done by one or both of the Houses of Parliament, or by any other persons whatsoever; since they are all the King's Subjects, as well in their Politick as Private Capacities.

I shall now return from whence I have digressed, and proceed with the Narrative of what remains of this unhappy Civil War, till the Murther of the King. The Parliament having raised a powerful Army under the Command of the Earl of *Essex* (as you have already heard) the King thereupon issued a Proclamation, whereby that Earl and all his Adherents were declared Traytors, yet with pardon to such as should return to their Obedience within Six days. But this gracious Offer was so much contemn'd, that so soon as it came to their Notice, the Two Houses published a Declaration in their Names, containing many shameful Invectives against His Majesty, declaring all such to be Traytors, that were Contrivers or Countenancers of this last Proclamation of *August the 9th*: And that if His Majesty would disband his Forces, abandon those wicked Counsellors, and hearken to the wholesome Advice of His Great Council, they would endeavour then to make Him and his Posterity as Great and Rich as any Prince that ever sway'd the Scepter. But these were but specious Pretences; for they had already taken the Town of *Portsmouth* by Siege, together with *Dover-Castle* by Surprise; and having now borrowed an Hundred thousand Pounds of that Money that had been raised for the Service of *Ireland* (with which the King not long after tax'd them in a particular Message) they proceeded to raise fresh Forces, till they had compleated an Army of above Thirty thousand Horse and Foot; whilst the King's Forces were as yet weak and inconsiderable.

Rush. ib.
p. 769.

Id. p. 771.

May's
Hist. &c.
p. 109.

ble for want of Money to pay them ; till going down into the Borders of *Wales*, as far as *Shrewsbury*, and there having some Money lent Him, and good store of Plate brought Him in from divers of the Loyal Nobility and Gentry of those Parts, He therewith raised so considerable a Force, that He was some time after able to give the Earl of *Essex* Battel, as He was marching in pursuit of Him towards *London*.

Rush
p. 784.

But I ought to have first told you, That on the Five and twentieth of *August* preceding, the King had erected His Standard of War at *Nottingham*, tho He then wanted a compleat Army to encounter the Parliament, till He found means to recruit it, as I have now related : Which particular deserves your notice, since the Parliament declared that this was the beginning of a War against them ; whereas indeed the War was actually begun some Months before on their side, by *Hotbam's* seizing upon, and keeping the King out of *Hull*, and by their reducing all other Towns and Places of Strength into their power, and by their Ordinance for the *Militia*, and seizing the Forces of the Kingdom into their own hands, ordering a vigorous Resistance to be made against all such as should dare to oppose them, by virtue of the King's Commission of *Array* (as hath been already mentioned.) But I cannot omit taking notice, that immediately upon his Majesty's Arrival at *Nottingham*, He sent the Two Houses a gracious Message, wherein He told them, That considering the many Mistakes which had arisen by the Messages, Petitions, and Answers, that had passed between Him and the Two Houses of Parliament, and which might be prevented by some other and nearer way of Treaty : He therefore proposed, that fit Persons should be enabled on either side to treat of and conclude all differences between them, for the publick Peace of the Kingdom, and farther promis'd all Safety and Encouragement to those, that should be so appointed by the Parliament ; and concludes, That if this Proposition should be by them rejected, *God would absolve Him from the Guilt of the Blood which must be spilt.*

Id. p. 785. To which the Two Houses Return'd a very High and Positive Answer, wherein they refused to enter into any Treaty

Treaty till the King had recalled His Declarations, whereby the Earl of *Essex*, and Both Houses of Parliament, with all their Adherents and Assistants, had been declared Traytors; and that His Majesty take down His Standard; since whilst they remain'd in that State, they cannot (as they said) by their Fundamental Privileges of Parliament, give Him any other Answer. To this the King however soon Return'd a short and fair Reply. First He protested that He never intended to declare both His Houses of Parliament Traytors, or set up His Standard against them; and therefore to remove all scruples which might hinder the Treaty He so much desired, He promised, so that a Day were appointed by them for revoking their Declarations against all Persons as Traytors, for assisting Him, He would then on the same Day willingly recall all His Proclamations and Declarations, and would also take down His Standard in order to a Treaty.

Id. p. 786.

But all that He could obtain from the Two Houses, was, That they could not recede from their former Answer; and positively insisted, That the King should first recall His Declarations, and take down His Standard, and leaving His Forces, return to His Parliament, without any thing to be done or yielded to at all on their side; saying, they would not allow themselves to be set in equal Balance with those Persons, whose Counsels had still prevail'd to hinder the Relief of *Ireland*; and immediately published a Declaration, that the Arms they were forced to take up for the preservation of the Laws and Liberties of the Kingdom, could not be laid down, until the King should withdraw His Protection from such Persons as had been Voted Delinquents by both Houses, and leave them to the Justice of the Parliament.

Id. ib.

To this the King within a few days after made another Reply; the Substance of which was, That He could neither do, nor offer any more, than He had done already; and that He should think Himself clear and innocent from any Blood that might be spilt in this Quarrel; praying God so to deal with Him and His Posterity, as He desired to preserve Religion, Law, and the Liberty of the Subject, and Privilege of Parliament. The Two House's Return to this, was in effect no more than to repeat their former Answer, That

May's

Hist.

p. 128.

That whilst the King thinks Himself bound in Honour to protect such Delinquents, in whose preservation the Kingdom cannot be safe, nor the Rights of Parliament at all maintain'd, they cannot enter into any farther Treaty with His Majesty; besides other reflecting Language too long to be here repeated. And I have been the more particular in relating these last Petitions with their Answers, since it will from thence plainly appear, how unwilling the King was to enter into a State of War with the prevailing Faction in the Two Houses; who would come to no other Terms with His Majesty, than an Indemnity for themselves, and a Power to inflict what penalties they pleased on all such as had any ways assisted Him in this Quarrel; which was utterly to discourage and deter all Persons that should go about for the future to aid or protect Him from their Insults and unjust Invasions of his known Prerogatives. Thus did they Sacrifice the Publick Peace of the Nation to their own Private Malice and Revenge.

I shall now draw to a Conclusion, and shall but lightly mention the particular Actions of this unhappy War, and what followed thereupon; as the Battels of *Edge-Hill*, *Marston-Moor*, and *Naseby*, and other places; in most of which the Parliament-Army obtain'd compleat Victories, under the fortunate Conduct of their Two Generals, the Lord *Fairfax*, and *Oliver Cromwel*; till at last the King, being reduced to the lowest Ebb of Fortune, was forc'd to quit *Oxford*, and fly to the *Scottish* Army for Succour; by whom He being some time after given up to the Parliament upon such Terms as had been agreed between them, He was by them confin'd to some of his own Houses, and upon his refusal to pass such Bills as they offered to Him, which were in effect to divest Himself of all His Regal Power, they thereupon Voted, That no more Addresses should be made to Him in any kind; which was in effect to disown Him for their Lord and King. And tho' during the War, as well as after it was ended, there were several Treaties set on foot, for the accommodation of those unhappy differences between the King and the Two Houses; yet they still proved Abortive, through the predominant Humour of
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some Leading and Factious Men, either of the one, or the other Party; who not desiring to see an End of the War, still insisted upon Higher and more Exorbitant Conditions, than were fit either for the King or Parliament to grant, with any Honour or Safety to themselves; as happened particularly at the Treaties of *Oxford* and *Uxbridge*, at the latter of which, nothing would serve the prevailing Parties of both Houses, but the King's absolute yielding up the Power of the *Militia*, and the total Abolition of *Episcopacy*, and the Book of Common Prayer, and giving up all those that had adher'd to Him, and assisted Him in the present War, to be Fined and Imprisoned, and Punish'd at their Discretion.

But when the *Presbyterian* Faction in the House of Commons was overpower'd by that of the *Independant*, which was back'd by *Cromwel*, and the Major part of the Army, by whom no less than Eleven Members were forc'd to quit the House at once, and most of them to fly beyond Sea after this, and that the King had been frightned from *Hampton-Court*, where *Cromwel* and the Officers of the Army had for a time treated Him with all seeming Freedom and Honour, till He fled to the *Isle of Wight* in Disguise; and there He was for some Months kept a close Prisoner; but at last, whilst *Cromwel* and his Army were gone into *Scotland*, to reduce the more moderate *Kirk-Party* there, which under the Conduct of Duke *Hamilton*, had raised an Army, (tho' with ill Success) to set the King at liberty; Then the Major, or prevailing Party of the *Presbyterians* in both Houses seeing their Error, and finding their Cause desperate, resolved to take this opportunity of Treating and Making a full and final Agreement with the King upon certain Conditions; which however hard and unequal in themselves, yet since they were somewhat more tolerable than those that had been before offer'd Him, and considering in what desperate Circumstances his Affairs then were, He was obliged to submit to: and had He done so at first, He might have by a speedy coming up to *London*, and joyning his Interest with that of the Parliament, and City, raised an Army sufficient to cope with that which *Cromwel* was bringing out of *Scotland*, which he had now reduced. But whilst they were insisting too long upon several unnecessary Punctilio's,

Punctilio's, the General with his *Independant* Army, march'd up to *London*, and soon put an end to the Treaty by a forcible Exclusion of the Major-part of the House of Commons, which had Voted the King's Concessions satisfactory; and then the remaining part (not being Sixty in all) upon the House of Lord's refusing to join with them, not only Voted them Useless and Dangerous, but also kept them from meeting any more: After which it was very easy for them to pass an Ordinance for the Tryal of the King, by certain Judges appointed for that purpose, who both Condemn'd Him, tho' He utterly denied their Power, and likewise ordered Him (beyond what can be parallell'd in History) to be Executed at the Gates of his own Palace: All which He suffer'd, (besides many other Indignities) with the highest Patience, and Christian Courage, as became the Greatness of that Character He bore.

Now I durst appeal to Your self, Whether there be any thing in all the Convention's late Proceedings against King *James*, that came near this, either in the Original of the Quarrel, the Means of the Prosecution; or Lastly, in the Issue and Consequence of the Whole Affair.

M. I must confess You have given a just account of the Beginning, Progress, and *Catastrophe* of that unhappy Rebellion, which ended (as most of them do when they prove Successful) with the Deposition and Murther of the King. And tho' I do not deny, but there is some difference between that, and the late Expulsion of His Majesty from the Throne; yet it is not so much as to make it a quite different Case, since you your self cannot but confess, that the Issue of both their Votes have been much the same: (*Viz.*) The Deposition (or as you word it) *Abdication* of the King, and the total *Abrogation* of His Royal Authority. All the difference I can find between them, is, That in the Case of King *Charles* the *First*, this was done when His Royal Person was in their Power; but in that of the King his Son, it was not Voted till after his Departure, or rather his being driven away; since He could no longer stay here with Honour or Safety to his Person: And what they would have done had he continued here, I cannot without Horror imagine: But it is well it proved no worse, and that they had not the opportunity of expressing their Malice against

against his Person as well as his Government : Therefore I desire You would now shew me (since you undertake to justify all that the *Convention* has done in Relation to the King) Why they might not as well have condemn'd him to Death, (as the *Rump-Faction* did his Father,) as have passed that Vote, *That by his Breach of the Original Contract between the King and People, and by his Deserting the Kingdom, He had Abdicated the Government ; and that the Throne was thereby become vacant : Since I always thought, that it had been sufficiently declared for Law by the Statute of 12th of Charles the Second, which attainted the Regicides of his Father, That neither the Peers, nor Commons separately, nor yet both of them together in Parliament, nor the People collectively, or Representatively, have any coercive Power over the Person of the King.* And certainly this was a Fundamental Law of the Land from the very beginning of Kingly Government in this Island, notwithstanding the contrary had been preach'd up, and writ for, by the Leaders of the Common-wealth Faction; and much the like Doctrines have been also spread Abroad, and justified of late in Seditious Pamphlets and Sermons, tho' veil'd over with subtil Distinctions to blind the Eyes of the People. Therefore pray let me see how you can defend this part of the Controversy.

F. I shall observe your Commands : But first give me leave to premise, That tho' I will not justify the Deposition of Princes, yet I very much doubt the truth of what you say, that it was always a Fundamental Law of *England*, that the Estates of the Kingdom, or Parliament, had no coercive Power over the Persons of their Kings, or could pass any Judgment on their Actions : For that it was not a Fundamental Law from the first Institution of the Government, I think I have already given you several Proofs from *Bracton*, and the *Mirror of Justices*; and shewn what was look'd upon in those Times to be the power of the Estates of the Kingdom, as to the restraining the Arbitrary and Illegal Actions of the King Himself, his Queen, Children, and great Officers of the Crown ; and what the *English-Saxon's Wittena Gemots*, did in Relation to their Kings, upon any Notorious Breaches of the Fundamental Laws of the Government, or a General Violation of the Liberties and Properties of the People, contrary to Law ; as you may remember formerly in the In-

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stances of King *Sigebert*, and *Edwy*, and others in the *Saxon* Times : And that the same was held Lawful, and put in practice after the *Norman Conquest* (as you call it), is as plain from what Two several Parliaments did in the Case of two Kings, viz. *Edward*, and *Richard* the Second ; which Proceedings were also justified, and confirm'd by the next subsequent Parliaments (as you may find in our Statute Book) by the Acts there to be seen in the First Year of *Edward* the Third, and First of *Henry* the Fourth ; tho' I will not justify those Actions neither, nor affirm that Parliaments have the same power at this day ; it having been by them disclaim'd by so many Subsequent Statutes.

M. I cannot deny that there are such Statutes as those you mention ; but if you please more nearly to consider them, you will find, that they were rather made to excuse, and indemnify the Persons, that had a hand in Rebellling against, and Deposing those Princes, than at all to justify the Actions themselves ; for in that Statute of *Primo Edward* the Third, you will read it is only there Enacted and Declared, ' That none that came over with the King ' that now is, and the Queen his Mother, nor none other ' that went with the said King in aid of them, to persue ' their Enemies, in which persuit *the King his Father was* ' taken, and put in Ward, and yet remaineth in Ward, shall be ' Impeached, Molested, or Grieved in Person, nor in Goods, ' in the King's, or in any other Court, for the said Facts ; ' nor for the Death of any Man, &c. from the day of the ' Arrival of the present King, to the day of His Coronation. And much to the same effect is that Act of Indemnity passed in the First of *Henry* the Fourth, ' that none shall be ' impeached or punished, that assisted that King to persue ' and take *Richard* the Second, and his Adherents. So that these Acts were only Pardons to such Offenders ; but do no way declare those Actions to be Legal, or any ways justifiable by the Known Laws of the Land, or Fundamental Constitution of the Government. And as for the Law at present, you know it is expressly declared by the Act of the 12th of *Charles* the Second, that not only the Command of the Militia of the Kingdom is His Majesty's undoubted Right, but that neither of the Two Houses can pretend to the same ; nor can levy any War Offensive or Defensive against His Majesty : So that I think nothing

thing can be more plain and exprefs, than that the late Proceedings againſt His Maſteſty have been altogether unjuſtifiable, and contrary to Law.

F. I do not deny that what you now ſay is in a great part true, and our written Laws do no ways allow any Reſiſtance, or Imprifonment of the King; but however, there are divers Actions, which, tho' not juſtifiable by the ſtrict Letter of the Law, yet being for the Publick Good, and Preſervation of the Government, and Original Conſtitution thereof, and in caſes of extreme Neceſſity when done indeed, ought to be juſtified and pardoned by ſubſequent Parliaments, as I have already ſufficiently made out; but ſince we have ſo fully diſcourſed of, and, as I thought, ſufficiently ſettled that Point at our Ninth Meeting, I ſhall ſay no more on that Subject now: And as to what you ſay in Relation to the late Proceedings of the Convention againſt the King, I have likewiſe ſo fully answer'd all that you could alledge to the contrary, at our Eleventh Converſation, that I need not here make Repetition; only give me leave to add, That if the Two Houſes of Parliament have no Power to Censure, and paſs Judgment upon the Notorious Illegal Actions of the King and his Miniſters, the Inſtitutions of thoſe great Councils are altogether in vain; ſince it was acknowledged by King Charles the Firſt, in his Answer to the Nineteen Propoſitions already mentioned, *That Parliaments had ſufficient Power to reſtrain Kings from Tyranny*; but this is always to be thus underſtood, Provided they exerciſe this Power rightly, and as they ought, for due and weighty Cauſes, and not vent their own private Reſentments and Revenge upon the King or his Miniſters, for ſlight and trivial occaſions.

M. Admit I ſhould grant it; yet you and your Party would gain little by that, ſince the Law ſtill ſuppoſes the King can do no wrong; and all Acts that are Illegal are not to be look'd upon as His, but thoſe Evil Counſellors and Miniſters that preſumed to do them, and who are alone to ſuffer for them, the Perſon of the King being always Sacred and unpuniſhable: And if it hath at ſome times happened otherwiſe in Point of Fact, it is by no means to be juſtified, or drawn into Example. But indeed this Revolution is in one thing very Singular, and without any Example, viz.

That where in all former Depositions of Princes, the Indignation of the People has fallen more severely on the Publick Ministers and Officers, by whom any Actions supposed to be Illegal and Arbitrary, had been done, than on the Person of the King Himself; as any one that reads the Histories of *Henry the Third*, *Edward the Second*, and *Richard the Second*, may observe; but in this Revolution that has lately happened, the King Himself hath been almost the only sufferer; and his Evil Counsellors, and Corrupt Ministers and Judges, have all escaped so much as any Publick Sentence or Punishment; which either shews, that what they had done was justifiable according to Law, or else that the Convention was very partial to those Offenders.

But to Conclude, and return to the Point in Question. If the Long-Parliament could not legally call King *Charles* to any account for what He had done contrary to Law (as your self seems to grant) I desire you to shew me any sufficient Reasons, why it should be treasonable for the Long-Parliament to pass a Vote, That the King's raising a Guard at *York*, was in order to make War upon the Parliament, and a Breach of the Trust reposed in Him, contrary to His Coronation-Oath, and tending to the Dissolution of the Government: And yet that the Convention's Voting, That King *James the Second*, by the Breach of the Original Contract between Him and his People, and by withdrawing Himself out of the Kingdom, had Abdicated the Government, should be look'd on as Legal, and according to the just Power of Parliaments; So that you must acknowledge, that the Long-Parliament were invested with a Power of censuring the King, and His Actions, and calling Him to an account for them: And if they had, then the Case of King *Charles the First*, and King *James* his Son will be much alike; but if the Long Parliament had not that Power, neither ought the Convention to have exercised it over the Actions of the present King. And pray, Sir, tell me, why the *Rump*-Parliament should be guilty of Treason for appointing Judges to Try and Condemn King *Charles*, and the Convention should be innocent, who have as good as deposed King *James*, by declaring Him to have Abdicated the Government; and that the
Throne

Throne is thereby become vacant ; since, I suppose, that this Convention, tho' of all the Estates of the Kingdom, Meeting and Acting without the King's Writ, hath no more (if so much) Authority as that Fag End of a Parliament which Murthered King *Charles*, and yet met at first by His Writ.

F. I hope, Sir, then, if I can give a satisfactory Answer to these your last Questions and Objections, you will come over to my Opinion. In the first place I own, and, I think, you your self must grant, that Parliaments have a Power of Impeaching and Punishing such Evil and Corrupt Ministers, as shall presume to act any thing contrary to *Magna Charta*, and the Known Liberties and Privileges of the Nation, tho' they did it by the King's express Commands ; since they are presum'd to know the Law, and either should have refused to accept their places upon unjust and unwarrantable Conditions, or else have resign'd them, rather than obey'd the King's Illegal Orders. But it is yet a higher aggravation of the Offence, if (as some of our Judges of late) they accept of those Offices, on condition to give their Judgments in point of Law only as the Court shall direct : So that the difference between us barely lies in the true Sense and Meaning of this Maxim in Law, that *the King can do no wrong* : Or if He do any in His own Person, how far he is liable to Answer for it. I grant indeed, That if the King never executes any Function of the Government in His own Person, He cannot be said to do any wrong, but only those His Ministers and Inferior Officers that act by such Orders : Yet what if the King Himself will act Ministerially, and will take upon Him in Person to seize those that are innocent of every thing but His Arbitrary Designs ? Or what if He will Himself put the Broad Seal to a Pardon of a Notorious Enemy to the Government, that stands Impeached by the Commons of *England*, Can any one say that this is not a doing wrong in His own Person ? What if He will turn His Chancellor, Chief-Justices, and other Judges out of their places, and will not admit of any New ones, but such as will Sacrifice their Consciences, and blindly promise to act and give Judgments according to whatever He shall please to set up for Law ? Or suppose He do in His own Person Sign and
Issue

Issue out Orders for a Standing Army in a Time of Peace, not to defend and preserve, but to enslave the Nation : Or suppose, that being petition'd to, and desired by some of his Peers, who are *Consiliarii Nati*, to abstain from making such Notorious Breaches upon the Constitution, He should immediately order under His own Hand the Petitioners to be Clapt up in the *Tower* ; Can the Governors of that place judge whether the fault those Lords stand committed for, be Treason, or only High-Misdemeanor ? Or Lastly, Suppose the King shall either refuse to call a Parliament to redress these Grievances ; or if He goes about to do it, shall evidently in His own Person Closet and Corrupt the intended Members of it, What must be done in such Cases, when all other Remedies fail ? And how many of these Acts and Breaches upon the Law the late King was in His own Person guilty of, I shall not now particularly enquire into, having already spoke sufficiently upon these Points ? And I wish, you, or any body else, could excuse Him from these personal Violations. I would farther ask you, what is to be done, when He will hearken to no Advice and Remonstrances that shall be offered to Him, to make Him sensible, that such Proceedings strike at the very Fundamental Constitution of the Government ? I say, what Course shall the whole Nation, or Parliament, as its Representative, take in such Cases where the King will remain incorrigible, and will not retract what He hath done, or repair those Breaches He hath made upon the Laws ?

M. I know no other Remedy, but still to apply themselves to Him by Petition : And if Prayers and Tears will not do, then to observe *Bracton's* Rule, That if the King will not be amended, *expectet Deum Ultiorem*.

F. Truly I expected some such sort of Answer from you to these Questions. But pray tell me, What if the King is resolved still to prove inexorable, and openly to declare by all His Words and Actions, that He will govern Arbitrarily by a Standing Army, and doth put it in practice accordingly : Do you allow the People no Remedy in that Case but only Prayers, and Tears ? For what satisfaction is it to me, my Prince's expecting the Vengeance of God for the Breach of His Coronation-Oath ? Will that prove any Alleviation of the Subject's Misery, that their Prince will be damned in another

another World, when perhaps He himself may not believe any such thing as a Life after this? For He may be told by His Priests and Jesuits, that it is a Commendable and Meritorious Action in Him to make Himself Absolute, and to Trample all the Laws of His Kingdom under His Feet; since otherwise He can never set up the *Romish Religion*, which upon their Principles is the only way to Salvation; and that it is lawful for Him to use any means to compass it. So that unless you will suppose all Governments ought to be Absolute, and Arbitrary, at the Will of the King, I do not see any means left the Subjects how to secure themselves from the rankest Tyranny.

M. To deal plainly with you: It is still my firm and steady Opinion, That if the worst Case which you have here put, should happen, it is better for the People to rely upon God's Providence, what shall become of their Persons, Religion, and Liberties, than to provoke His Wrath by any Rebellion, or Resistance of the King or His Officers; since I do not think that even the Defence either of our Religion, or of those Liberties and Privileges which have been granted by our former Kings to the Subjects of this Nation, can ever be Counterbalanced by a Rebellion and Long Civil War; for besides the present Calamities which it certainly brings along with it, it commonly ends in the Destruction of the King's Person, if not the Expulsion of the Royal Line and Family; as we have seen lately in the Flight of the Queen, with the Infant Prince, which was followed with that of the King; rather than which I think any thing, even Persecution it self for Religion, were better to be endured by us, than a Remedy worse than the Disease.

F. I am sorry You and I have Discours'd so long, and so often about these matters, without being able to make each other any whit wiser; and that you are still so obstinate in your first Opinions: I must therefore beg your pardon that I cannot be of your Mind, since our Principles are so different: You supposing that no Resistance of a Tyrannical, Illegal Power, if carried on under the Name and Authority of a King, can be in any Case lawful for the People or Subjects, let what will be the Consequence; whilst I (who believe the People were not made, or ordained by God, only for Kings to use them as their Slaves,
or

or meer Brutes) am persuaded, that for the Preservation of their Natural and Civil Liberties and Properties, conferred on them by the very Constitution of the Government, not by the meer Grace and Bounty of former Kings, as some of your Party affirm, (and therefore of which the whole People can be the only proper Judges), they may not only take up Arms, but drive out such a Tyrant that so invades them, if they are able of themselves to do it; or else may beg the Assistance of any other Neighbouring Prince, that will be so generous as to undertake their Cause. Otherwise I can see no Remedy, but that all Kings, how limited soever, may make themselves not only Absolute Monarchs, but their People as Absolute Slaves as those in *Turky*, or *Muscovy*. And I am so much a Patron of Liberty, that I cannot think any of the Consequences you mention, such as a Long Civil War, or the Expulsion of a Tyrannical Prince, can be worse than constant Slavery, Ignorance, and Poverty, which are the certain Consequences of your Hypothesis, of leaving all Princes to dispose of the Estates, Lives, and Liberties of all their Subjects at their pleasure. And tho' I own, that War, and the loss of Thousands of Lives, may happen in the defence of them; yet this State is rather sometimes to be preferr'd (if it cannot be avoided) than the other; as any Man, I think, would, if it were put to his Choice, rather have a Fever once in Seven Years, and come off with Life, than languish under an Ague, or Consumption for the like space of Time, and Die at last: Since that saying of the Poet is very true, *Non est vivere, sed valere Vita*: And now this Parallel seems very just, without making any particular Application of it.

But to return to the Matter in Hand, To which, what I have just now said, has been only Preliminary; I shall as freely own on the other side, that it may so happen, that a Whole People, or the Major-part of them, or the Estates of the Kingdom, or Parliament, or at least the Major-part of them, may entertain unjust Prejudices against the King; and by passing too hard a Censure on his Actions, may by the Artifices of Factious and ill Men, be drawn into Rebellion, and to take up Arms against Him without any just Cause; and in this Case, since there is no Superior Power between Him and His People, He only can be Judge, and

and the Appeal must then be made to God, and the Consciences of all his Good Subjects, that remain still untainted, and will be ready to assist in maintaining His Just Rights ; or He may also, in such Cases, implore the Assistance of some Neighbour-Prince, provided He take care, that the Auxiliaries He shall afford Him may not prove so powerful as to make themselves Masters of the whole Kingdom and Nation ; as we often find in History to have been the Event of such Foreign Assistances.

These Things being premised, I think it not at all difficult to Answer your Queries. As First, Why the Two Houses of Parliament could not justly or legally call King *Charles* to an Account for what He had done contrary to Law. And Secondly, Why it should be Treasonable for them to pass a Vote, that the King's raising a Guard at *York*, was in order to make War upon the Parliament, in Breach of His Coronation Oath, and contrary to the Trust reposed in Him. And yet that the Convention's Voting that King *James the Second*, by the Breach of the *Original Contract*, and by withdrawing Himself out of this Kingdom, had *Abdicated* the Government.

Now to Answer Your Queries in order, I shall let you know, that in the first place, I utterly disavow all *Coercive Power* in one or both Houses of Parliament, to call the King to an Account for any Actions committed by Himself, or His Subordinate Ministers or Officers ; and therefore all the Proceedings of the *Rump-Parliament* against King *Charles* were absolutely Void, and Illegal, not only from the incompetency of the Authority, they being but the Fag End and Remainder of the Members of that Parliament ; and without any Concurrence of the Third Estate, or Peers of *England* ; who, (tho' at that time excluded by Force, yet) have always had a Joint Power with, if not Superior to, that of the Commons, in all such Cases of the highest Importance. But indeed because both Houses are the King's Subjects, and called by His Writ, and have Sworn Allegiance to Him, therefore they could not pass Judgment upon Him as a Criminal, since He was still their Sovereign ; neither could they proceed against Him as an Enemy ; because

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by the whole Narrative of these Transactions it appears, that He was unwillingly drawn into that unhappy War, and acted only upon the Defensive, in Maintenance of His Just Right of the *Militia*, and other Prerogatives of the Crown, which a prevailing Faction in both Houses would then have deprived Him of against His Consent.

This being so, the other part of the Question is easily Answer'd; Why the Convention's Proceedings against King *James* should be justifiable, and not those of the *Rump*-Parliament against His Father, since the Instances are by no means Parallel; for the Convention did in no wise take upon them to Judge or Pass Sentence upon the King, as one accountable to them for His Actions; for they only gave their Vote, or Censure, upon what He had done, as that which had already divested Him of all Right to the Crown; and in effect implied an Absolute *Abdication* of the Government. And I have already proved in our former Conversation, that when a King plainly declares by His Actions, that He will no longer govern by Law, and refuses to amend the Breaches that have been made by His Subordinate Ministers, He thereby Himself becomes answerable for those Miscarriages. And tho' I grant His Person is still unaccountable, and unpunishable, for want of a Superior Power to condemn Him; yet He may so carry Himself towards His People, in visibly going about by Force to Subvert the Religion and Laws, that upon His obstinate Refusal, or wilful putting Himself out of a Capacity to amend those Breaches He Himself hath made, or at least His Inferior Ministers by His Order; He may thereby forfeit and lose the very Crown it self, and all Right to govern any longer: but still (as I have formerly said) this wholly proceeds from His own Exorbitant Actions, and not from any Coercive Authority the Parliament can pretend to over His Person. Thus, for Example: If in the State of Nature, a Husband carry himself so cruelly towards his Wife, as that she can no longer live in safety with him, she may lawfully quit his Bed and Family, and provide for her own safety somewhere else: After which, I doubt not, but in that State the Bond of Matrimony is thereupon dissolved; and this not from any Authority the Wife has over the Person of her Husband, but from the great Law of Nature
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of *Self-preservation*, or else it would lie in the power of any Husband to Tyrannize, nay to Murther his Wife whenever he pleased, and she could have no Remedy left her to provide for her own Safety. The Case is so plain between the People and a Tyrannical Prince, that, I think, it needs no farther insisting upon, than to apply what I have now said in general, to King *James* Himself in particular. And I shall but lightly touch upon this Head, having at our Eleventh Conversation fully proved, that the King's late Actions and Proceedings mentioned in the Prince of *Orange's* Declarations, especially that of His assuming to Himself a Power of *Dispensing* with all Laws, were breaches of *Original Contract* between the King and His People, and that there is such a Contract, I think I have sufficiently proved at our Tenth Meeting: And if so, what the King hath done tended to a Dissolution of the Government; and not being redressed, give the People a Right of Resistance by force to such Illegal Judgments, and Commands. And tho' I grant, so long as there are any hopes left that the King would desist from, and redress those Violations, He ought not to suffer either in His Person, or Dignity, but only those that assisted Him in those Exorbitant Actions; since the King's Person should always be sacred and unpunishable; yet when He plainly declares, that He will not redress them, and puts Himself out of a Capacity of doing it, by leaving the Kingdom without offering any Satisfaction for what he has done; nay, doing his utmost to leave the Nation in a State of Anarchy and Confusion: If this be not an implicit *Abdication* of the Government, when the King thus absolutely refuses to govern any longer upon those Terms and Conditions on which He has received the Crown, I know not what can be reckoned one; unless you wou'd have an express *Abdication*, or *Renunciation* of it, which I suppose cannot be expected in this Case. And if the Convention of Lords and Commons upon their Meeting have passed their Votes that it was so, it does not therefore follow, that their bare Voting so, can make it so, if it were not so before. However, you must own, that it is a solemn Declaration of the Sense of the Representatives of all the Estates of the Kingdom, and ought to be acquiesced in, and submitted to, by all the Subjects of it; unless you

can shew me better Reasons to the contrary, than you have hitherto done: So that after all your aggravating Expressions, this Vote of theirs did not at all touch the Person of the late King, nor yet deprive Him of his Regal Authority, since He had already done sufficient to forfeit and divest Himself of it: And if He hath happen'd to be the greatest Sufferer in this *Revolution*, and that his Evil Counsellors, Corrupt Ministers and Judges, with other inferior Officers, have escap'd Censure and Punishment, this hath fallen out from the Iniquity of the Times, and the great multitude of Offenders which have been engaged in the same bad Cause, and pertook of the same Guilt with the *Papists* themselves: And you know very well, in what manner, by the tacit consent of two prevailing Factions, those Offenders came to escape: But I hope the Votes of the Convention will however stand as a perpetual Land-Mark and Boundary, to warn all subordinate Officers for the future, not to break in upon the Liberties and Privileges of the Nation, lest a worse thing befall them.

But to come to your last Objection, the Incompetency of Authority in the Convention to censure the King's Actions; which because they did not meet upon the King's Writ, you will needs fancy that they had no more Right to sit or act, than the *Rump*-Parliament, when all the rest of the Members were secluded, and the House of Lords voted useless. This is indeed a great mistake, and which you could not have fallen into, had you considered as you ought, that the People and their Representatives, the Estates of the Kingdom, were before Kings in this Nation, who often owed their Crowns to their Election; as I have already proved at our *Fifth* and *Twelfth* Conversations; to all which I did not find you had any thing considerable to return by way of Answer: And that upon all manner of Emergencies, and Revolutions of Government, the Estates of the Kingdom, or Parliament, have always exerted their Authority, either without any Writ or Summons from the King, or else have sat after the Kings who called them had *Resign'd* their Crowns, and *Abdicated* the Government. And to give you Instances of this, I shall begin with the Great Council of Parliament at *Rumney-Mead*, consisting of all the Nobility and People of *England*; in which *Mag-*

na Charta was first granted : And tho it was not called by King *John*, yet it was by Him acknowledged for a Lawful Assembly of the Estates of the Kingdom ; as you may see in *Matt. Paris* : And pray also consult *Matthew of Westminster*, and *Walsingham's Chronicle* ; and you will there find, that upon the Decease of King *Henry the Third*, the Estates of the Kingdom met in a Great Council at *Westminster*, by their own Power and Authority, and there solemnly recognized his Son *Edward the First* (who was then, as they supposed in the Holy Land) his Title to the Crown, and order'd Him to be proclaimed King, when as yet they knew not certainly whether He was Alive or Dead : And when his Son *Edward the Second* was deposed in Parliament, and had also solemnly resigned his Crown to his Son *Edward the Third*, the same Parliament that had deposed the former King, sate and acted without any fresh Summons, under the new one, and there passed several Statutes, as you will find in *Rastal*, or *Keeble*. And the like happen'd upon the Deposition and Resignation of *Richard the Second* : the same Parliament that deposed Him, sate some time after under *Henry the Fourth* ; and there were divers Statutes passed (as there were also in the first Parliament of *Edward the Third*) which are accounted good Laws at this day, without the Confirmation of any subsequent Parliaments, as you may see likewise in the Statute-Book, and Parliament-Rolls themselves. So that when our Great Council have once met on such absolutely necessary Occasions, it is not the Authority that calls them, but their own inherent Right and Power from the Constitution of the Government, that gives sufficient Sanction to their Proceedings. I did, as I remember, at our last meeting but one, slightly mention these two last Instances upon another Occasion ; but since they now serve for my present purpose, pray pardon me, if I take the Liberty to put you in mind of them again.

M. I confess you have given divers specious Instances of the Independant Power of Parliaments, upon any great Emergencies and Revolutions of Government ; But yet I have very much to except against most of them. As for the first Instance of the Great Council at *Rumney-Mead*, I have long since told you my Opinion of it, that it was a Riotous and Unlawful Assembly, met there against the King's

King's Will: And tho I am not for abrogating the *Great Charter*, since it has been so often confirm'd by the voluntary Sanctions of so many succeeding Kings; yet I must freely tell you, I think it was obtain'd by mere Force and Rebellion at the first. Indeed your next Instance of the Assembly of Estates that met to recognize *Edward the First*, is more to your purpose; but then I pray consider, that this was in a Case of absolute Necessity, in the absence of the King, and for the publick Peace and Quiet of the Nation, to settle the Government in good hands, till his Majesty's return. And admit I should grant such a way of proceeding may be good for the doing of a necessary and lawful Act; yet it does not therefore follow, that a Convention shall have power to make Laws without a King, much less to censure his Actions, and actually depose Him: Therefore give me leave to tell you, as you your self cannot justify the Two Houses of Parliament in their deposing King *Edward*, and *Richard the Second*, so neither can their sitting and acting under their Successors be defended, according to the strict Rules and Customs of Parliament; because they were summoned by their Writs to *meet, consult, and act* with the King that call'd them, and none other; and when He either resign'd the Crown, or deceased, their Authority was likewise at an end.

F. I shall not only answer the Objections you have now brought against my Instances from Matter of Fact, but shall, I hope, confirm them with such fresh ones, as you will not be able to answer. First then, as to what you object against the Validity of the Great Council at *Rumney-Mead*, I think it will not answer the end for which you bring it; since I have already, in our *Ninth* Conversation, sufficiently vindicated the Legality of that Assembly: And give me leave now to add, that both the Legality of that, and the *Charter* then granted, were sufficiently asserted by King *Henry the Third's* confirming, or rather new granting of it in the first year of his Reign, by the Advice of his Uncle, *William the Marechal*, Earl of *Pembroke*, and *Guallo* the Pope's Legate, who plainly found, that even those Noblemen and Gentlemen that took part with the Young King against Prince *Lewis* of *France*, would never be contented till it was done. And tho the same King *Henry* often confirm'd

firm'd this Charter, as did also his Son *Edward the First*, yet it was not because their first Confirmations were not valid and sufficient, but from the want of their being observed as they ought to have been, by reason of the frequent Breaches that had been made upon it, either by those Kings themselves, or their Evil Counsellors and corrupt Ministers; from whence, upon every notorious Violation of it, the Estates of the Kingdom were not satisfied, till they had, by giving the King fresh Subsidies (as you will find mention'd at the end of those Charters) procured new Confirmations of that Charter, as also of that of *Forests*; and those often fortified with dreadful Excommunications denounced by the Bishops against all those that should for the future presume to infringe them: Yet all this was scarce sufficient; so prevalent were evil Counsellors in those days (as well as ours) over our Kings, and so great Temptations did they find often to violate them.

As for what you say in mitigation of my Instance of the Great Council that met without any Summons from the King, to recognize *Edward the First*, you have granted as much as I would have; which is, That such an Assembly is justifiable, *when the Publick Necessity and Peace of the Nation require it*. Nor do I my self maintain or desire any more. But then I do not give the Estates of the Kingdom a Power upon every turn to meet, whether the King will or not: Yet certainly, upon such great and extraordinary Occasions, they had, and still have such a Power to assemble, and act as a Parliament, and to make Laws too, notwithstanding they were never called by the King's Writ at first. Besides the Precedents of the First of *Edward the Third*, and First of *Henry the Fourth*, already mentioned; and against which you have nothing to urge, but the Law and Custom of Parliaments at this day; which does not hold neither, since even in our own Memory (as I told you once before) the Convention that recall'd King *Charles the Second*, passed the *Act of Oblivion*, and made many other Statutes. And tho it is true that they were confirm'd by the following Parliament, yet that those Acts had been good without any such Confirmation, appears by several private Acts which were then passed, without ever being confirm'd at all, and yet are still acknowledged to be good Statutes at this day.

And

* *Vid.* 11th
Dialogue.

And that this Independent Power of the Great Council of the Estates of the Nation, is not peculiar to *England*, but has also formerly been in use in other Neighbouring Kingdoms, whose Princes are now look'd upon as Absolute Monarchs, I have already proved * from several Instances both in *France*, *Spain*, and other Countries: As in particular, that Great Assembly which met upon the Death of King *Charles the Fair*, to determine to whom the Right of the Crown then belonged, whether to our *Edward the Third*, or *Philip Count of Valois*, who both laid Claim to it; and upon solemn hearing of the Commissioners of both the Competitors, the Estates adjudged the Crown to the latter, as Right Heir, by virtue of the *Salique Law*, tho further removed in Blood than King *Edward*, from the King that last deceas'd. The like Decision I also told you the Estates of the Kingdom of *Castile* made between the pretended Daughter of *Henry the Impotent*, King of *Castile*, and his Sister *Isabella*, who was afterwards married to *Ferdinand King of Arragon*; when upon a solemn hearing of the whole matter, the Estates adjudged the Crown to the Princess *Isabella*, and set aside a Daughter the Queen had by a Favourite, as Illegitimate. And I have again mentioned this piece of History, because it comes nearest to the present Case, concerning the Prince of *Wales*: For who shall judge of his Legitimacy, if there appear any thing sufficient against the Reality of his being born of the late Queen, but the Parliament, or Great Council of the Nation? Which I am sure you cannot as yet accuse of any Partiality in this Affair.

M. I am satisfied from the Authorities you have brought, as well as the Reason of the thing, That in case the Title to the Crown is any way disputable, that the Great Council of Estates ought to judge of it, in all Kingdoms where there are any such Assemblies. But I think the Case of this Young Prince's Legitimacy to be so clear and indisputable, that there can be no just occasion for any such Tryal. However, if there should appear any such necessity, I suppose the King and Queen, his Parents, would not be against the putting the Decision of this matter to a Free Parliament, consisting of those of the true Church of *England*, and not of *Whigs* and *Fanatics*. And as for the Power of the Estates to meet on other necessary Occasions, such as their
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Recognizing their Lawful Prince, I shall not oppose that neither; tho' I do not thereby allow them an unlimited Power of Deposing Kings, or of putting the Crown on what Head they please, to the prejudice of the Right Heirs by Blood.

F. I am glad you and I are so far agreed in the main; tho' I cannot but observe, that you are under a very great Mistake, in limiting the Power of the Estates of any Kingdom, only to the bestowing of the Crown on those you call the *Right Heirs*; for pray tell me, who can better judge of this, than They? And might not the Estates of *France*, if they had so pleased, have adjudged the Crown to King *Edward*, as well as to *Philip of Valois*; and had not then all the Subjects of that Kingdom been obliged to acknowledge Him, notwithstanding their pretended *Salick Law*? But the Estates of the Kingdom, or Parliament in *England*, have a higher Power; for it is Enacted by the Statute of 11th of *Henry the Seventh* (which I have already Cited, tho' on another account) *that no one whatever, who shall serve the King for the time being in His Person; or shall yield Him true Allegiance in the same, either by serving Him in His Wars, or elsewhere, shall suffer any Attainder, or Forfeiture for so doing;* where you may easily take notice, That the intent of this Statute is to Indemnify the Subjects of *England*, who shall assist and serve the King for the time being, (let his Title be what it will.) Now how can the Subjects of this Kingdom distinguish, or judge, who is Lawful King, or has the best Title to the Crown, but by the Judgment and Recognition of their Representatives, the Estates of the Kingdom? Nor is there any difference in this Case between an Act made by a King *de Jure*, and one that is only so *de Facto*; for you can't deny, that King *Henry VII.*, before His Marriage with the Princess *Elizabeth*, was any other, and after her Death, He could be no better; and upon your Principles likewise, Queen *Elizabeth* her self had no more than a Parliamentary Title; and yet She made an Act in the Thirteenth Year of her Reign, that the King or Queen, with the Consent and Authority of Parliament might alter, and limit the Succession of the Crown as they thought fit: which Act I have proved to you at our last Meeting but one, to be still in Force; and I now repeat it, to refresh your Me-

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mory, and let you see, that this *Revolution*, and the present Limitation of the Crown, is justified by both those Statutes; and does not only differ in the Original and Prosecution of the Quarrel, from the Civil War begun, and carried on by the Long Parliament, but also in the Issue of it; that ending, not only with the Deposition and Murther of the King, and the setting up of a Common-wealth, but with the Expulsion of the whole Royal Line, and the destruction of the Church and Episcopal Government; whereas it is now (God be thanked) quite otherwise; for tho' King *James* be declared incapable to govern, yet the Convention has thought fit to place the Crown on the Heads of His Son-in-Law, and Daughter, whom they look'd upon to have most Right to it. And as for the Church of *England*, all things remain in the same state as they were in King *Charles's* Reign; and I hope will continue so, or rather be Reform'd for the better. And therefore I think I have sufficiently justified the present *Revolution* from your Objections, and shewn you, That an Old *Cavalier*, or true Son of the Church of *England*, may very well approve, and comply with this present Change; and yet at the same time keep the Thirtieth of *January* without any Hypocrisy; and may also still maintain, that the cutting off King *Charles's* Head was a horrid Murther and Treason, in those that were guilty of it.

M. As for the Conclusion of your Speech, I wholly agree with you, but not in the Premises; for tho' the Crimes the Nation is guilty of in one Case, are not so horridly cruel and barbarous, as in the other; yet certainly no good Subject can justify the taking up Arms against the King upon any pretence whatsoever; much less presume to declare, That He hath violated (I know not what) Original Contract; and that the Throne thereby is become Vacant, and then placing any one therein, but Him whose Right it is; since I look upon the Oath of *Allegiance* of Perpetual Obligation upon all those that have taken it, not only to His present Majesty, but the Heirs of His Body begotten; so that you may keep the Thirtieth of *January* as much as you please; yet I doubt you cannot excuse those of your Party that have been the Contrivers and Abettors of this Revolution, from much the like (tho' I will not say the very same) Crime,

Crime, with that of the *Rump*-Parliament. And as to what you say concerning the present flourishing condition of the Church, and your hopes of the farther Reformation of it, I wish I could see it; tho' I cannot now expect it, as things are like to go; since some of her Members have, by the taking up Arms, and joining with the Prince of *Orange*, given the Enemies of our Religion a great advantage over them. And what will become of the Church, when the Archbishop of *Canterbury*, and all other Conscientious Bishops and Clergymen, shall be deprived for not taking the Oath to the present Government, I dread to think; for I can foresee nothing but a most fearful Schism, like to be the Consequence of that Act.

F. I thought I had sufficiently prov'd in our former Conversations, that taking up Arms in Defence of our Religion and Civil Liberties, when no other Remedy could prevail, was not unlawful according to our Constitution. Secondly, That there is such a thing as an *Original Contract*, however ignorant you are pleased to make your self of it. Thirdly, That by the *Abdication*, or Forfeiture of King *James* (call it which you please) the Throne did really become vacant; and that it is legally filled by their present Majesties: That the Oath of Allegiance is of perpetual Obligation I also grant; but it is still on Condition, that the King shall likewise truly keep and perform that part of the Contract contain'd in his Coronation Oath, without going about to alter and invade our Religion and Civil Liberties by an Armed Force, and Arbitrary Power; and if this were not so, we should owe it wholly to the King's meer Favour and Goodwill, if He did not make us all *Papists*, nay, *Turks*, and *Slaves*, whenever He had a mind to it. These are indeed the Principles I have all along maintain'd; and, I hope, I shall never have occasion to be ashamed of them. Therefore since it now grows late, and that I find it impossible to make a Convert of you, and bring you over to my Opinion, I will bid you Good-Night, and part as much your Friend as before: For I am satisfied of your Sincerity, and that it is only Prejudice or a Mistaken Zeal, and too Scrupulous a Conscience, that hinders you from coming over to our side.

M. I thank

Bibliotheca Politica.

M. I thank you for your kind Thoughts of me; and in Return, can only tell you, that I think your Error proceeds from much the same Causes as you suppose mine do; only I wish I could add, that of a too Scrupulous Conscience; however I am obliged to you for the benefit of this Evening's Conversation, in which I must own I have received a great deal of light in many things which I was before ignorant of; and so I take my leave, and shall continue your real Friend and Servant.

F I N I S.

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